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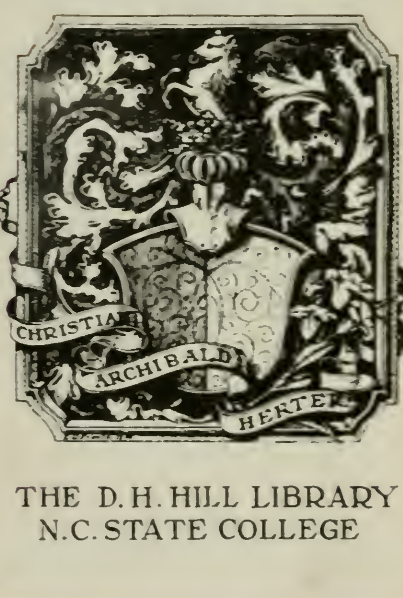

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DEMOSTHENES.

VOL. V.

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FROM THE ANTIQUE BUST

THE

ORATIONS

OF

DEMOSTHENES

AGAINST

MACARTATUS, LEOCHARES, STEPHANUS I.
STEPHANUS II. EUERGUS AND MNESIBULUS, OLYMPIODORUS,
TIMOTHEUS, POLYCLES, CALLIPPUS, NICOSTRATUS, CONON,
CALLICLES, DIONYSODORUS, EUBULIDES, THEOCRINES, NEÆRA,
AND FOR THE NAVAL CROWN;
THE FUNERAL ORATION; THE EROTIC ORATION, OR PANEGYRIC
UPON EPICRATES; EXORDIA; THE EPISTLES.

Translated

BY

CHARLES RANN KENNEDY.

Forming the Fifth and concluding Volume of the Works of Demosthenes.

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THE

ORATIONS OF DEMOSTHENES

THE ORATION AGAINST MACARTATUS.

THE ARGUMENT.

This speech was delivered by Sositheus on behalf of his son Eubulides, a minor, in a suit brought to recover an estate from the defendant Macartatus. The estate in question was left by one Hagnias, who having died without children, Phylomache, the daughter of his first cousin Eubulides, claimed his inheritance as nearest of kin, and, being at the time married to Sositheus, prosecuted her claim through her husband in the usual way before the Archon. Her title was disputed by Glaucus and Glaucon, who claimed under an alleged will of Hagnias. A trial took place; the will was thought not to be genuine, and the estate was adjudged to Phylomache. After this however a new claim was preferred by Theopompus, a second cousin of Hagnias, who seems to have founded his title upon two grounds. First he alleged, that Eubulides, the father of Phylomache, was first cousin to Hagnias by the half-blood only, his mother having been only half-sister to the father of Hagnias; and therefore he did not impede the descent to a second cousin by the whole blood. Secondly, he relied upon the law, cited in this oration, which gave a preference to males and the issue of males; he himself being descended from the common ancestor (the great grandfather) purely through males, while Phylomache was obliged to trace her descent through a female, namely Phylomache, her grandmother. In answer to the latter argument it was urged, that the preference of males only applied when the parties traced their descent to the same common ancestor; and that Phylomache, who was first cousin once removed to Hagnias, was descended from his grandfather, whereas Theopompus was descended from his great grandfather, and was not entitled to inherit according to the Attic law, until both the paternal and maternal relatives within the third degree were exhausted. We do not know how this point was decided; for the first objection to Phylomache's title, which, as Sositheus says, took him by surprise, prevailed with the court, and the verdict was accordingly given for Theopompus.

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It is stated also by Sositheus, that Theopompus was materially assisted in the trial by Glaucus and Glaucon and a certain other party, all of whom appeared as independent claimants, and pretended to be acting on their own account, but really played into the hands of Theopompus. How the Athenian law enabled such collusion to be practised upon the trial of an inheritance suit, has been partly shown in Volume IV. Appendix VI. page 365; and the reader may compare what is said in Isæus, *De Hagniæ Hereditate*, page 86, Bekker's edition.

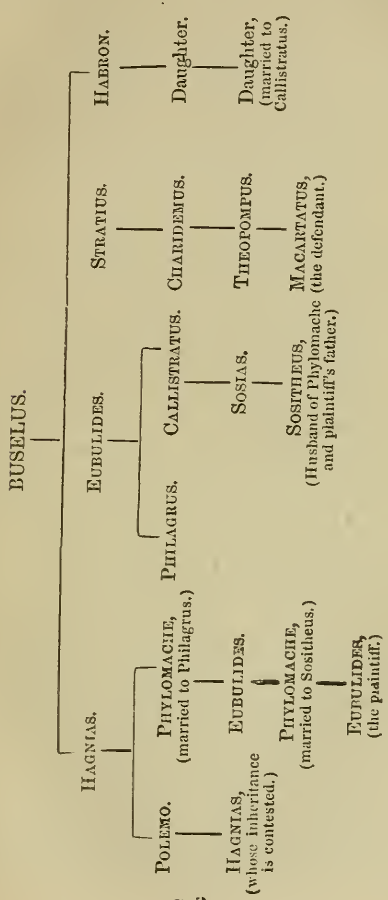
Theopompus, having thus gained the estate, remained in possession until his death, which happened many years after, and was succeeded by his son Macartatus. A five years' quiet possession would have conferred upon Macartatus an indefeasible title: but within the five years a claim was preferred against him on behalf of Eubulides, the second son of Sositheus and Phylomache. Sositheus, having given to this son the name of his maternal grandfather, had introduced him to the grandfather's clan, and made him (as far as he could do so legally) the grandfather's son by adoption, in order that he might become, in point of law, a first cousin once removed to Hagnias, whose inheritance was in dispute. Macartatus is then cited before the Archon, to defend his title against the young Eubulides; a court is held to try the question *de novo;* and Sositheus conducts the case of his son, as he had before conducted that of his wife.

The present claim is put substantially on the same ground as that of Phylomache, the plaintiff making title as the child (son by adoption) of Eubulides, first cousin of Hagnias. Sositheus takes care this time to provide himself with evidence to show that Phylomache, mother of his father-in-law Eubulides, was sister by the whole blood to the father of Hagnias. On the other side doubtless the same grounds of opposition were taken as before; but, in addition to these, we may collect as well from the argument of the present plaintiff, as from that in the case of Leochares which follows, that the legality of the proceeding, by which the young Eubulides was transferred to the clan and house of his maternal grandfather, would be disputed by Macartatus, on the ground that an adoption could only be effected by the grandfather himself in his lifetime. Sositheus indeed declares, that his father-in-law had desired and intended in his lifetime to adopt a child of his daughter, and that he himself had only carried that intention into effect. It is probable however, that a mere wish or intention to adopt, not followed by any act of the adopting father in his lifetime or by any testamentary direction, would be wholly inoperative in point of law; and if so, Macartatus would contend, that the proceeding of Sositheus was a nullity, his object having been to obtain a new trial by substituting the son for the mother, whose claim was barred by the former verdict.

For an explanation of the law upon the whole of this subject, the reader is referred to Article *Heres* in the Archæological Dictionary, and the authorities there cited. He should peruse also the oration of Isæus "On the estate of Hagnias," which relates to the same subject matter, though the parties to the cause are different. After Theopompus, the father of Macartatus, has recovered the estate from

Phylomache, a demand is made upon him for a moiety of it in behalf of his deceased brother's son; who being an infant, his guardian prefers an impeachment against Theopompus for defrauding him. Isæus wrote the speech for the defence, which, we may conclude, was successful.

A table of descent is annexed, containing the principal persons referred to in the case.



SINCE we have had trials, men of the jury, with these same parties on former occasions for the estate of Hagnias, and they persist in their violent and lawless conduct, endeavouring by every possible means to keep possession of what does not belong to them, it is perhaps necessary to explain to you everything that has taken place from the beginning: for you, men of the jury, will thus more easily follow the whole argument, and these persons will be exhibited in their true characters, and you will see that they have been for a long time playing tricks and are playing them still, and imagine they may do whatever comes into their head. We therefore beseech you, men of the jury, to give us a favourable hearing, and to follow our statement with attention. I will endeavour on my part to give you the fullest possible information on the subject.

The mother of this boy, men of the jury, being the nearest of kin to Hagnias of Œum, got the estate of Hagnias to be adjudged to her according to your laws: and not one of the adverse claimants of this estate ventured to swear that he was nearer of kin than the lady, (for it was admitted on all hands that by birth she was entitled to the inheritance;) but a false will had been concocted by Glaucus of Œum, and Glaucon, his brother, and Theopompus, father of the defendant Macartatus, who assisted in getting up the whole case for them, and was their witness in most of the depositions that were put in. The will which they then produced was proved to be false; and they not only lost the cause, but went out of court with a deep stain upon their character. And Theopompus, father of the defendant Macartatus, was in the city, when the crier asked "if any one wished to make a claim to the estate of Hagnias, either by descent or under a will, or to deposit security for the costs of such claim;" yet he did not venture to make any deposit, but gave judgment against himself, that he had no title whatever to the estate of Hagnias. The mother of this boy thus became possessed of the estate, having prevailed in the court of justice against all who disputed her title. Yet such is the brutality of these persons; so determined were they not to obey your laws or abide by a judicial decision, but rather to use every possible means to deprive her again of the estate which you adjudged to her; they conspired together, and entered into an agreement which they

deposited with Medeus of Hagnus—the parties to the conspiracy being Theopompus, father of the defendant Macartatus, Glaucus, and Glaucon, who lost the former trial; and they had associated a fourth person with them, an acquaintance of their own, whose name was Eupolemus—all these persons, I say, in pursuance of their plot, cited the lady before the archon to try the title to the estate of Hagnias, saying that the law prescribed that, whoever wished to make a claim should cite the party who had obtained an adjudication and was in possession of the estate. And when the archon brought the cause into court, and the trial was to come on, they had got everything nicely arranged for the trial, and (among other things) the water allowed them for their speeches was four times as much as ours. For the archon, men of the jury, was obliged to pour nine gallons of water into the glass for each of the claimants, and a fourth of that quantity for the second speech; so that I, who conducted the cause for the lady, was not only unable to explain the relationship and other important points as I could have wished to the jury, but found it impossible to answer the smallest fraction of the lies which they told against us; for I had only a fifth part of the water. And this was the contrivance; that they should co-operate with each other and agree in everything, and that they should misrepresent our case entirely. In this manner they plotted and acted in concert together against us; and there being four ballot-boxes produced according to law, the jurors (very naturally, as it seems to me), were deceived and divided in opinion, and under mistake, owing to this intrigue, they voted each of them at hap-hazard; and there were about three or four more balls in the box of Theopompus than in the box of the lady.

Such were the proceedings at that time, men of the jury. After the birth of this child, when I thought the season had arrived, not feeling any resentment at what had occurred, but considering that the former jury had fallen into a natural mistake, I introduced this boy, Eubulides, to the clansmen of Hagnias, as he was the son of his daughter, in order that his family might not become extinct. For, men of the jury, it was the dearest wish of the former Eubulides, who was nearest of kin to Hagnias, that a son might be born to him, as a daughter had been, namely the mother of this boy: but,

since that wish was not accomplished, and he had no male issue, the next object of his anxiety was, that a son of his daughter should be adopted by him into his own family and that of Hagnias, and be introduced to his clansmen; for he considered, men of the jury, that of all his surviving relatives his daughter's son was the nearest to him, and that this would be the best means of preserving his house and preventing its extinction. And I, who had married the daughter of Eubulides, (she having been adjudged to me as next of kin,) performed this service for him: I introduced this boy to the clansmen of Hagnias and Eubulides, of whose community Theopompus, the father of the defendant Macartatus, was a member in his lifetime, and Macartatus himself is a member also. And the fellow-clansmen of Macartatus, men of the jury, who thoroughly knew the pedigree of the family, seeing that he himself did not choose to run any risk, and did not remove the victim from the altar, as if this boy were not rightfully introduced, but required them to commit perjury, took the ballot-balls while the victims were burning, carrying them from the altar of Jupiter Phratrius in the presence of the defendant Macartatus, and passed a just vote, men of the jury, namely, that this boy was properly and rightfully introduced as the adopted son of Eubulides into the family of Hagnias. The clansmen of the defendant Macartatus having passed such resolution, this boy, being the son of Eubulides, cited Macartatus to try the title to the estate of Hagnias, and got a day appointed before the archon, putting his brother's name on the record as guardian; for I, men of the jury, could no longer be nominated as guardian, having transferred the child by adoption into the family of Eubulides. And the citation was made by this boy according to the same law, under which these men cited his mother, who had before succeeded in the court, and was in possession of the estate of Hagnias.

Now read me the law, which directs that the party who is in possession of the inheritance shall be cited.

THE LAW.

"If any person shall claim the inheritance or the heiress after adjudication, let him cite the party who has obtained the adjudication before the archon, in the same manner as in

other suits: and the claimant shall make a deposit for costs, and if the estate shall be adjudged to him without citation, the adjudication shall be of no effect. And if the person who has had the estate adjudged to him is not alive, let him cite in like manner the successor, if his time of prescription has not expired: and the question to be tried by the archon shall be, on what grounds the person whose property he possesses obtained the adjudication."

You have heard the law, and I make one reasonable request to you, men of the jury. If I show that this boy, Eubulides, and Phylomache, who is mother to the boy, and daughter of Eubulides, are nearer of kin to Hagnias than Theopompus, the father of Macartatus, and not only that they are the nearest of kin, but that there is no person at all belonging to the house of Hagnias, except the mother of this boy and the boy himself—if I can establish this, I entreat you, men of the jury, to give me redress.

I intended at first, men of the jury, to write the whole pedigree of the family of Hagnias on a board, and thus to exhibit every particular before you; but then I thought that all the jurors would not have an equally good view, for those who sat at a distance would not have the benefit of it; so perhaps it is necessary to explain it to you by word of mouth, which you will all comprehend. I will do my best to describe to you the genealogy of Hagnias in as short a compass as possible.

Buselus, men of the jury, was a member of the township of Œum, and he had five sons, Hagnias and Eubulides and Stratius and Habron and Cleocritus. And all these sons of Buselus grew up to manhood, and their father Buselus divided his property among them all fairly and equitably, as it became him to do. Having partitioned the estate among them, each of the sons married a wife according to the Athenian laws, and they had all sons born to them and grandsons, and five families sprang up out of the single family of Buselus, and they dwelt apart, each managing his own family and bringing up his own offspring.

Concerning three of these brothers, sons of Buselus, and their descendants, I need not trouble either you, men of the jury, or myself with any particulars. Although they stand in the same degree with Theopompus, and are as near of kin

to Hagnias, whose inheritance is in question, not one of them has ever troubled us, either now or at an earlier period; not one has made any claim either to the estate of Hagnias, or to the heiress, who was assigned in marriage to me; for they considered that they had no title to anything belonging to Hagnias. It seems therefore to me, that it would be superfluous to say anything about them, except what is absolutely necessary to mention. Of Theopompus however, the father of Macartatus, and of Macartatus, the defendant himself, it is necessary for me to speak. What I have to say, men of the jury, will be brief.

You have just heard that Buselus had five sons. One of these was Stratius, the ancestor of the defendant Macartatus, and another was Hagnias, the ancestor of this boy. Hagnias had a son Polemo, and a daughter Phylomache, sister of Polemo both by the father's and the mother's side. Stratius, the brother of Hagnias, had issue, Phanostrate, and Charidemus, the grandfather of the defendant Macartatus. Now I ask you, men of the jury, which is nearer of kin and more closely related to Hagnias—his son Polemo, and his daughter Phylomache, or Charidemus, the son of Stratius, and nephew of Hagnias? I think for my part, that a son and daughter are more closely related to every one of us than a nephew; and this is not only not a received opinion with us, but with all the rest of mankind, whether Greeks or barbarians. As this then is acknowledged, you will easily follow the rest of the argument, men of the jury, and you will see the reckless audacity of our opponents.

Polemo, the son of Hagnias, had a son Hagnias, bearing the name of his grandfather Hagnias. And this second Hagnias died without issue. Phylomache, Polemo's sister, and Philagrus, to whom her brother Polemo gave her in marriage, he being his first cousin, (for Philagrus was son to Eubulides, the brother of Hagnias,)—they, Philagrus, the cousin of Polemo, and Phylomache, the sister of Polemo, had a son Eubulides, the father of this boy's mother. These then were the sons of Polemo and Polemo's sister Phylomache. To Charidemus, the son of Stratius, there was born a son, Theopompus, the father of the defendant Macartatus.

Now again I ask you, men of the jury—which is nearer of kin and more closely related to the first Hagnias—Hagnias,

the son of Polemo, and Eubulides, the son of Phylomache and Philagrus, or Theopompus, the son of Charidemus, and grandson of Stratius? It appears to me, men of the jury, if the son and the daughter are the nearest relations, that again the son's son and the daughter's son are more nearly related than the son of the nephew, and a child of another branch of the family.

Well: to Theopompus was born a son, Macartatus, the defendant. To Eubulides, the son of Phylomache, and first cousin of Hagnias, was born this boy, who, in respect of Eubulides, his father by adoption, is son of a first cousin, by the father's side,[1] to Hagnias; since Phylomache, the mother of Eubulides, and Polemo, the father of Hagnias, were brother and sister both by the father's and the mother's side. To Macartatus, the defendant, the son of Theopompus, there has been no issue who is both in the family of Hagnias and that of Stratius. Such being the facts, this boy has one of the titles mentioned in the law, and to which the law allows the right of succession to extend; for he is first cousin once removed to Hagnias; for his father Eubulides was first cousin to Hagnias, whose inheritance is in question. On the other hand, Theopompus, father of the defendant Macartatus, cannot give him any of the titles mentioned in the law; for he belonged to a different branch of the family, namely, that of Stratius. But it is not proper, men of the jury, for any person to possess the estate of Hagnias, who belongs to a different branch of the family, as long as there remains any person who sprang from the branch of Hagnias; nor is it proper to expel such person by violence, which these men are attempting to do, they being more distantly related, and not in the same branch of the family. For this, men of the jury, is the point upon which Theopompus, father of the defendant Macartatus, misled the jury. Who then are remaining? They who are still in the family of Hagnias, namely, my wife Phylomache, who was daughter of Eubulides, the first cousin of Hagnias, and this boy, who has been introduced into the family of Eubulides and Hagnias. Theopompus however, the father of the defendant Macartatus, not being of the family of Hagnias, told a huge falsehood to the jury concerning Phylomache, the sister of Polemo, and aunt of Hagnias,

[1] With reference to Polemo. See 1063, line 22.

saying that she was not sister of Polemo, the son of Hagnias, both by the father's and the mother's side; and another falsehood, in pretending that he was of the same family with Hagnias, when he never belonged to it. All this Theopompus asserted fearlessly, without producing any witness, who would have been responsible to us, but leaving his associates to confirm what he said; for they co-operated together, and took all measures in concert, in order to deprive the lady, the mother of this boy, of the estate which you had decided to be hers.

I desire, men of the jury, to call witnesses to the facts which I have stated to you, first to prove that Phylomache, the daughter of Eubulides, obtained judgment for the estate of Hagnias, as being the next of kin, and then to establish the rest of the facts. Read the deposition:—

THE DEPOSITION.

"The deponents say, that they were before the arbitrator in the archonship of Nicophemus, when Phylomache, the daughter of Eubulides, obtained judgment for the estate of Hagnias against all who disputed her title."

That Phylomache, the daughter of Eubulides, obtained judgment for the estate of Hagnias, you have heard, men of the jury. And she obtained it not by any iniquitous contrivance or conspiracy, but in the fairest possible manner, by showing that she was nearest of kin to Hagnias, whose inheritance is in question, being daughter of his first cousin by the father's side, and being of the same branch of the family with Hagnias. When Macartatus therefore says, that his father Theopompus obtained judgment for this estate, reply to him yourselves, men of the jury, that the lady also obtained judgment before his father Theopompus, and that the lady won the cause fairly, being of the same branch of the family as Hagnias, being daughter of Eubulides, the first cousin of Hagnias, whereas Theopompus did not win the cause, but cheated her out of it, he being of an entirely different branch from Hagnias. Make this reply to him yourselves, men of the jury; and further, that neither Theopompus, the father of Macartatus, nor any one else ever got a judgment against this boy Eubulides, the son of Eubulides, and first cousin once removed by the father's side to Hagnias, whose inheritance is in question. The trial and the contest for the

estate of Hagnias are now between this son of Eubulides on the one side, and this Macartatus, the son of Theopompus, on the other; and whichever of the two parties shall in your opinion make out a case most consonant to law and justice, that party, it is plain, you jurors will support.

Read the remaining depositions; first, those to prove that Phylomache, the aunt of Hagnias, was sister both by the father's and the mother's side to Polemo, the father of Hagnias: after that, he shall read all the other depositions concerning the pedigree.

DEPOSITIONS.

"The deponents say, that they are members of the same township with Philagrus, the father of Eubulides, and Polemo, the father of Hagnias, and they know that Phylomache, the mother of Eubulides, was reputed to be the sister of Polemo, the father of Hagnias, both by the father's and the mother's side, and they never heard from any one that Polemo, the son of Hagnias, had a brother."

ANOTHER DEPOSITION.

"The deponents say, that Œnanthe, the mother of their grandfather Stratonides, was first cousin to Polemo, the father of Hagnias, their fathers having been brothers, and they heard from their father, that Polemo, the father of Hagnias, never had any brother, but had a sister by the father's and the mother's side, namely, Phylomache, the mother of Eubulides, the father of Phylomache wife of Sositheus."

ANOTHER DEPOSITION.

"The deponent says, that he is a relation and fellow-clansman and fellow-townsman of Hagnias and Eubulides, and he heard from his father and his other relations, that Polemo, the father of Hagnias, never had any brother, but he had a sister by the father's and the mother's side, namely, Phylomache, the mother of Eubulides, the father of Phylomache wife of Sositheus."

ANOTHER DEPOSITION.

"The deponent says, that Archilochus was his grandfather and adopted him as son, and that he was a kinsman of Polemo, the father of Hagnias, and he heard from Archilochus and

his other relations, that Polemo, the father of Hagnias, never had any brother, but had a sister by the same father and the same mother, namely, Phylomache, the mother of Eubulides, the father of Phylomache wife of Sositheus."

ANOTHER DEPOSITION.

"The deponent says, that his wife's father Callistratus was first cousin to Polemo, the father of Hagnias, and to Charidemus, the father of Theopompus, their three respective fathers having been brothers, and that his mother was daughter of a first cousin of Polemo, and that their mother often said to them, that Phylomache, the mother of Eubulides, was sister of Polemo, the father of Hagnias, both by the father's and the mother's side, and that Polemo, the father of Hagnias, never had any brother."

On the former occasion, men of the jury, when these men entered into a conspiracy, and united to carry on a joint-case against the lady, we, men of the jury, neither prepared depositions nor called witnesses to establish a fact that was not in controversy, but supposed that upon this point we were perfectly safe. Our opponents scrupled not to employ every kind of artifice to win the trial, and had no other thought but to deceive the jury for the moment: they asserted, that Polemo, the father of Hagnias, had no sister at all by the father's and the mother's side; such was their abominable impudence, to mislead the jury upon a matter so important and so notorious!—and they exerted all their efforts to establish this assertion. We however to-day have produced all these witnesses before you concerning the sister of Polemo and aunt of Hagnias. Let any one that likes give evidence for the defendant, either that Polemo and Phylomache were not brother and sister by the same father and the same mother; or that Polemo was not the son, and Phylomache not the daughter, of Hagnias the son of Buselus; or that Polemo was not the father of Hagnias, whose inheritance is in question, and Polemo's sister Phylomache not his aunt; or that Eubulides was not the son of Phylomache, or of Philagrus, the cousin of Hagnias; or again, that the still living Phylomache is not the daughter of Eubulides, the first cousin of Hagnias, and this boy not his son, having been adopted according to your laws into the family of Eubulides;

or that Theopompus, the father of the defendant Macartatus, was of the same branch as Hagnias. Let any one give testimony for him to any of these points. But I am sure, no mortal will be so hardy or so desperate.

Now, men of the jury, let me make it clear to you, that on the former occasion they got the better of us by their impudence, without having a word to say on the merits of the case. Read the rest of the depositions:

DEPOSITIONS

"The deponent says, that he is a relation of Polemo, the father of Hagnias, and he heard from his father, that Philagrus, the father of Eubulides, and Phanostrate, the daughter of Stratius, and Callistratus, the father of the wife of Sosi theus, and Euctemon, who was king-archon, and Charidemus, the father of Theopompus and Stratocles, were first cousins to Polemo, being children of fathers who were brothers, and that Eubulides stood in the same degree of relationship to the sons of Charidemus and to Hagnias, with reference to his father Philagrus, but that, with reference to his mother Phylomache, Eubulides was reputed to be first cousin to Hagnias, being his father's nephew, and son of the paternal aunt of Hagnias."

ANOTHER DEPOSITION.

"The deponents say, that they are of kin to Polemo, the father of Hagnias, and to Philagrus, the father of Eubulides, and to Euctemon, who was king-archon, and they know that Euctemon was brother by the same father to Philagrus, the father of Eubulides; and that, when the citation was given by Eubulides to try the title to the estate of Hagnias, Euctemon was still living, being first cousin to Polemo, the father of Hagnias, their fathers having been brothers, and that Euctemon did not contest the title to the estate of Hagnias with Eubulides, nor did any one else advance a claim by descent at that time."

ANOTHER DEPOSITION.

"The deponents say, that their father Straton was of kin to Polemo, the father of Hagnias, and to Charidemus, the father of Theopompus, and to Philagrus, the father of Eubulides, and they heard from their father, that Philagrus

took for his first wife Phylomache, sister of Polemo, the father of Hagnias, both by the father's and the mother's side, and that Philagrus had by Phylomache a son Eubulides, and that, after the death of Phylomache, Philagrus took a second wife, Telesippe, and that there was born a brother to Eubulides, but by the father's side only, named Menestheus; and that, when Eubulides claimed the estate of Hagnias by descent, Menestheus put in no claim to the estate of Hagnias, nor did Euctemon, the brother of Philagrus, nor did any other person claim title by descent in opposition to Eubulides at that time."

ANOTHER DEPOSITION.

"The deponent says, that his father Archimachus was of kin to Polemo, the father of Hagnias, and to Charidemus, the father of Theopompus, and to Philagrus, the father of Eubulides, and he heard from his father, that Philagrus took for his first wife Phylomache, sister by the same father and the same mother to Polemo, the father of Hagnias, and that there was issue by Phylomache, namely Eubulides, and that, after the death of Phylomache, Philagrus took a second wife, Telesippe, and that Philagrus had by Telesippe a son Menestheus, brother to Eubulides by the same father, but not by the same mother; and that, when Eubulides claimed the estate of Hagnias by descent, Menestheus put in no claim to the estate, nor did Euctemon, the brother of Philagrus, nor did any other person claim title by descent in opposition to Eubulides at that time."

ANOTHER DEPOSITION.

"The deponent says, that Callistratus, his mother's father, was brother to Euctemon, who was king-archon, and to Philagrus, the father of Eubulides, and that they were first cousins to Polemo, the father of Hagnias, and to Charidemus, the father of Theopompus, and he heard from his mother, that Polemo, the father of Hagnias, had no brother, but had a sister by both the father's and the mother's side, named Phylomache, and that Philagrus married this Phylomache, and they had a son Eubulides, the father of Phylomache wife of Sositheus."

It was a matter of necessity to read these depositions, men of the jury, in order that we might not suffer the same mis-

fortune as before, and be taken by these persons unprepared. But the defendant Macartatus shall give testimony against himself, and prove far more clearly than I have proved already, that neither his father Theopompus nor himself has the least title to inherit anything from Hagnias, Theopompus being in a degree further removed, and in an entirely different branch of the family. For suppose he were asked, men of the jury, as follows—"Who is the party who disputes the title of this boy to the estate of Hagnias?"—Of course he would say, "Macartatus."—"Who is his father?"—"Theopompus."—"Who is his mother?"—"The daughter of Apolexis, of the Prospaltian township, and sister of Macartatus of the same township."—"And of whom was Theopompus the son?"—"Of Charidemus."—"And of whom was Charidemus the son?"—"Of Stratius."—"And of whom was Stratius?"—"Of Buselus." This, men of the jury, is the branch of Stratius, one of the sons of Buselus, and these are the descendants of Stratius, whose names you have heard; and here does not occur a single one of the names belonging to the family of Hagnias, no, nor even one that is similar. Now again, let me interrogate this boy—"Who are you, that contest with Macartatus the right to the estate of Hagnias?"—The boy has no other possible answer, men of the jury, but this—"I am Eubulides."—"Of whom the son?"—"Of Eubulides, the first cousin of Hagnias."—"By what mother?"—"By Phylomache, who was daughter of a first cousin by the father's side to Hagnias."—"Of whom was Eubulides the son?"—"Of Philagrus, the cousin of Hagnias."—"By what mother?"—"By Phylomache, the aunt of Hagnias."—"And of whom was Hagnias the son?"—"Of Polemo."—"And of whom was Polemo?"—"Of Hagnias."—"And of whom was Hagnias?"—"Of Buselus."—This is another branch, that of Hagnias, one of the sons of Buselus, and here we find no name whatever of the descendants of Stratius, neither the same name, nor any similar; but they go on in a course of their own in the family of Hagnias, receiving names from one another. Thus in every way, and in every point of view, their case is disproved; it is shown that they came from another branch of the family, and are in a degree further removed, and that they are not entitled to inherit any of the property of Hagnias. That you may see, to what persons the legislator gives

the right of succession and inheritance, he shall read you these laws:

THE LAWS.

"Whenever any one dies without having made a will, if he leaves female children, his property shall be taken together with them; if not, the persons herein mentioned shall be entitled to the property. If there are brothers by the same father, and if there are children of brothers lawfully born, the latter shall take the share of the father. If there are no brothers or children of brothers, the next of kin shall take in like manner: and males and the issue of males shall have preference, if they are from the same ancestor, even though in degree further removed. If there are no relatives on the father's side within the degree of children of cousin's children, the relatives of the intestate on the mother's side shall inherit in like manner. But if there shall be no relative either on the father's or the mother's side within the degree aforesaid, the nearest of kin on the father's side shall inherit. And no illegitimate child, either male or female, shall have succession to any rights either sacred or civil, from the time of the archonship of Euclides."

The law, men of the jury, expressly declares to what persons the inheritance shall go—not (by heavens!) to Theopompus, nor to Macartatus, the son of Theopompus, who are not at all in the family of Hagnias—but to whom then does it give the inheritance?—to the descendants of Hagnias, who are in his branch of the family. This is what the law says, and this is in accordance with justice.

And, men of the jury, while the legislator has given these rights to the relatives, he has not omitted to impose by the law a great number of duties, the performance of which by the relatives is made compulsory. There are a great number of obligations which he lays upon the relatives, and he allows no excuse, but they must of necessity be performed. However, read the law itself. Take the first.

THE LAW.

"With respect to those heiresses who are in the class of Thetes, if the next of kin does not choose to marry one, let him give her in marriage with a portion, if he be of the class of Pentacosiomedimni, with a portion of five hundred

drachms, if of the class of Knights, with a portion of three hundred, if of the class of Zeugitæ, with a hundred and fifty, in addition to what she has of her own. If there be several in the same degree of consanguinity, each of them shall give a marriage gift to the heiress rateably. If the heiresses be more than one, it shall not be necessary for the kindred to give in marriage more than one, but the nearest of kin shall be bound either to give her in marriage or marry her himself. And if the nearest of kin will not marry her, or give her in marriage, let the archon compel him either to marry her himself or give her in marriage. If the archon neglects to compel him, he shall incur a penalty of a thousand drachms payable to Juno. And any person that chooses may prefer an information to the archon against any one who disobeys this law."

You hear what the law says, men of the jury. When it became necessary to claim the hand of the heiress Phylomache, the mother of this boy, and whose father was the first cousin of Hagnias, I came forward out of respect for the law and preferred my suit, as being the nearest of kin; but Theopompus, the father of Macartatus, never made his appearance or preferred any claim, because he had no manner of title, although he was a person of the same age. How strange you must think it, men of the jury, that Theopompus never made a claim to the hand of the heiress, whose father was first cousin to Hagnias, and yet should demand the estate of Hagnias contrary to the laws! Could there be persons more impudent and brutal than these? Now read the other laws.[1]

THE LAWS.

"Proclamation shall be made to the homicide in the market-place by all the relatives within the degree of cousin and cousinship, and cousins and children of cousins and sons-in-law and fathers-in-law and clansmen shall jointly prosecute. And if there be a question of condonation, if there be a father, or brother, or sons, they shall all join in the condonation, or any one who opposes it shall prevail. And if there be none of these, and the homicide was accidental, and the Fifty-one shall declare that the homicide was accidental, let the clansmen, ten in number, pronounce the condonation, if they think proper; and let these be chosen by the Fifty-one from the

[1] See vol. iii. Appendix 8, pp. 332, 333, Arch. Dict. title *Φόνος*.

most distinguished members of the clan. And this statute shall apply to persons who have committed homicide before the passing thereof. And when any persons die in the townships, and no one takes them up for burial, let the demarch give notice to the relations to take them up and bury them, and to purify the township on the day on which each of them dies. And respecting slaves he shall give notice to the master, and respecting freemen to those who are in possession of their property, and if the deceased has no property, he shall give notice to the relations of the deceased. And if, after the demarch has given notice, the relations shall not remove the body, let the demarch contract to have it removed and interred and to have the township purified on the same day, at the least possible expense; and if he shall not so contract, he shall incur a penalty of a thousand drachms to the public treasury. And whatever money he shall expend, he shall receive the double thereof from the parties liable; and if he shall not receive it, he shall be bound to repay it himself to the members of the township. And those persons who do not pay the rents, which are owing for lands of the Goddess and the other deities and the heroes, shall be disfranchised, they and their family and their heirs, until such rents are paid."

All these duties, which the laws impose upon the relations, they impose upon us, and compel us to perform them, men of the jury. To Macartatus the defendant they do not address a word, nor to Theopompus his father; for they do not belong at all to the family of Hagnias: how then can the laws impose any obligations on them?

But the defendant, men of the jury, though he has not the shadow of an argument to urge against the laws and the depositions which we produce, talks about hardship, and says he is cruelly treated, because he is trying the cause after his father's death. He does not reflect, men of the jury, that his father was a mortal, and has departed this life with many other persons both younger and older than himself. However, if Theopompus the defendant's father is dead, the laws are not dead, nor is justice dead, nor are the jurors who have to give the verdict. The present contest and issue are not whether one man has died before or after another, but whether it is proper or not that the kinsmen of Hagnias, who are cousins and cousins' children to Hagnias on the father's side,

should be expelled from the family of Hagnias by persons who belong to the family of Stratius, and who have no manner of right to inherit the property of Hagnias, but are in a degree of relationship farther removed. This is the question now at issue.

You will see still more clearly, men of the jury, from the law which I am about to cite to you, that your legislator Solon is very careful respecting the members of the family, and not only gives to the relations what is left by the deceased, but also imposes on them all the onerous obligations. Read the law.

THE LAW.[1]

"They shall lay out the deceased in the house, in what manner they think fit. And they shall carry out the deceased to burial the day after they have laid him out, before the sun rises. And the men shall walk before, when they carry him out, and the women behind. And it shall not be lawful for any woman under sixty years of age, to enter into the chamber of the deceased, or to follow the corpse when it is carried to the tomb, except those who are within the degree of cousin's children; nor shall it be lawful for any woman to enter into the chamber of the deceased, when the body is carried out, except those who are within the degree of cousin's children."

It does not allow any woman besides the relations within the degree of cousinship to enter the room where the deceased lies, and it allows these same women to follow to the grave. Now Phylomache, the sister of Polemo, the father of Hagnias, was not cousin to Hagnias, but aunt; for she was sister to Polemo, the father of Hagnias. Eubulides, the son of this woman, was first cousin by the father's side to Hagnias, whose inheritance is in question. And the mother of this boy was the daughter of Eubulides. These female relatives the law commands both to be present at the laying out of the deceased and to follow him to the grave; but it does not command the mother of Macartatus, nor the wife of Theopompus; for they are no way related to Hagnias, but were of a different tribe, the Acamantian, and of a different township, that of Prospalta, so that they did not even get intelligence when Hagnias was dead. These men therefore are seek-

[1] See the Charicles, Excursus on the Burials.

ing to bring about a most outrageous result—namely, that we and the women of our family were obliged to inherit the corpse of Hagnias when he died, and to perform all the last offices, as relations and next of kin; but that Macartatus is to be held entitled to the estate of the deceased Hagnias, although he is descended from the house of Stratius, and his mother was daughter of Apolexis the Prospaltian, and sister of Macartatus. But this is neither just nor righteous, men of the jury.

Now read me the extract from the oracle of Apollo, brought from Delphi—that you may see that its language concerning the relations agrees with the laws of Solon:

THE ORACLE.

"Good fortune unto you. The people of Athens inquire about the sign which has appeared in the heavens, desiring to know what the Athenians should do, or to what God they should offer sacrifice or prayer, in order that the sign may turn to their advantage. It is expedient for the Athenians, with reference to the sign which has appeared in the heavens, that they should sacrifice with happy auspices to Jupiter the supreme, to Minerva the supreme, to Hercules, to Apollo the preserver; and that they should send to the Amphictyons, to sacrifice for good fortune to Apollo the street-god, to Latona, to Diana; and that they should make a sweet savour in the streets, and set up the wine-bowl, and perform dances, and wear garlands according to the custom of the country, in honour of all the Olympian Gods and Goddesses, lifting up the right hand and the left, and should not forget to offer gifts according to hereditary custom: and it is meet that ye offer sacrifice and gifts according to the custom of the country to your hero-founder, from whom ye derive your name; and that honours should be paid to the manes of the departed on the proper day by the relations according to received usage."

You hear, men of the jury, that Solon in the laws and the God in the oracle speak the same language, commanding the relations to perform sacred rites to the departed on the proper days. But Theopompus and the defendant Macartatus did not trouble themselves with these matters: all they care for is, to possess what does not belong to them, and to complain that, after they have for a long time had possession of

the estate, they are now trying the title to it. I should have thought, men of the jury, that a person keeping possession of another man's property ought not to complain that he had kept it longer than he was entitled, but to be thankful not to us, but to fortune, that so many inevitable delays had intervened, to postpone the trial of the question until now.

Such is the disposition of these persons, men of the jury; and they don't care in the least either for the extinction of the house of Hagnias, or for the rest of their lawless conduct. O Jupiter! O ye Gods! What need to mention other things about them? It would be too long to mention all. But one thing which they have done is in the highest degree illegal and brutal, and affords the most perfect evidence that they care for nothing but gratifying their covetousness. No sooner had Theopompus obtained judgment for the estate of Hagnias in the manner that you have heard, than he gave proof that in his own opinion he had got what did not belong to him. The most valuable thing upon the grounds of Hagnias, which was most admired by the neighbours and by other people, was the plantation of olives: these they dug up by the roots, more than a thousand trees, which yielded a very large quantity of oil: after rooting them up, they sold them, and got a considerable sum of money. And this they did when the estate of Hagnias was still subject to dispute, according to the very law by virtue of which they had cited this boy's mother.

To prove the truth of my statement—that these men rooted up the olives from the land which Hagnias left—I will call as witnesses before you the neighbours, and some other persons whom we got to attend when we made our protest in the matter. Read the deposition.

THE DEPOSITION.

"The deponents say, that at the invitation of Sositheus they went with him to Araphen to the land of Hagnias, after Theopompus had had the estate of Hagnias adjudged to him, and that Sositheus showed them the olive trees being rooted up from the land of Hagnias."

If this proceeding, men of the jury, were only an outrage upon the deceased, their conduct was shameful, though in a less degree: but, in point of fact, they have committed thereby

a breach of law and an outrage upon the whole commonwealth. You will see, when you have heard the law. Read the law:

THE LAW.

"If any man shall dig up an olive tree at Athens, unless for a sacrifice of the Athenian state or of one of the townships, or for his own use to the number of two olive trees every year, unless it be necessary to use it for the burial of a deceased person, he shall incur a penalty of a hundred drachms to the public treasury for every such olive tree. And the tenth part of such penalty shall belong to the Goddess. And he shall be liable also to pay to the individual who prosecutes him a hundred drachms for every such olive tree. And the proceedings for any such offence shall be taken before the archons[1] for those offences over which they have jurisdiction respectively. And the prosecutor shall be bound to pay the court fees appertaining to him. And whensoever any person shall be condemned, the archon, before whom the cause was heard, shall make a return to the collectors of such penalty as accrues to the public treasury, and to the treasurer of the Goddess of such penalty as accrues to the Goddess. And if the archons neglect to make such return, they shall be liable themselves to pay the amount."

The law is thus stringent. Reflect in your minds, men of the jury: consider what we must have suffered formerly from these persons and their insolence, when they have treated you, so great a people, and your laws with contempt, and have done what the laws expressly forbid them to do, thus contemptuously ravaging the land which Hagnias left. The law forbids a man to remove such things even out of his own land inherited from his father. Much they care either about obeying your laws, or preventing the extinction of the family of Hagnias.

I am desirous, men of the jury, to say a few words to you now about myself, and to show you that I have made provision, in a very different way from these persons, to prevent the extinction of the family of Hagnias. For I myself too

[1] The chief archon would have jurisdiction where the offence was committed upon land of which the inheritance was disputed: the king-archon, where the trees were on consecrated land: the polemarch, when the offender was an alien.

From the notes of Reiske and Pabst.

am of the race of Buselus. The grand-daughter of Habron, son of Buselus, was married to Callistratus, who was the son of Eubulides, and grandson of Buselus; and they, the grand-daughter of Habron and Callistratus, nephew of Habron, were the parents of my mother. I, men of the jury, having obtained the hand of this boy's mother by legal adjudication, and having had four sons and one daughter born to me, gave my sons the following names: to the eldest I gave my father's name, Sosias; it was right that I should do so, and accordingly I gave to the eldest the name to which he was entitled: to my second born I gave the name of Eubulides, which belonged to the father of this boy's mother: to the third I gave that of Menestheus; for Menestheus was a kinsman of my wife: and to the youngest I gave the name of Callistratus, which was that of my mother's father. In addition to this, I did not give my daughter in marriage to a stranger, but to my own brother's son, so that, if they lived and had their health, their children also might be of the kindred of Hagnias. Such were the measures which I adopted, in order that the families descended from Buselus might in the fullest possible way be preserved. Let us inquire further into the conduct of our opponents: and first of all read this law:

THE LAW.

"Let the archon take charge of orphans and heiresses and families which are in danger of becoming extinct, and of such women as remain in the houses of their deceased husbands under the plea of pregnancy. Let him take charge of these persons, and not suffer any one to do any outrage to them. And if any one shall commit any outrage or illegal act against them, the archon is hereby empowered to impose a fine upon such person within the limit allowed by law.[1] And if it shall seem to him that the person so offending merits a higher punishment, let him cite such person, giving him five days' notice, before the court of Heliæa, and let him superscribe the indictment with such penalty as he thinks fit, and let him bring it to be tried before the said court. And if such person shall be convicted, let the court of Heliæa determine what penalty he ought to suffer or to pay."

How could any people take more effective measures to

[1] See Meier & Schömann, Att. Proc. p. 34.

render a family extinct, than by doing what these men do when they strive to expel from the family the nearest relatives of Hagnias, they themselves being of another branch, that of Stratius?—and again, when the defendant claims to possess the estate of Hagnias, as being his relation by blood, and yet the name, which he bears, is not only not derived from the family of Hagnias, but belongs not even to that of Stratius, his ancestor? Why, he has not the name of any of the descendants of Buselus, numerous as they are. Whence then does he get his name of Macartatus? From his mother's relations. For he was adopted into the house of Macartatus of Prospalta, his maternal uncle, and he has the property of that house also.[1] And so outrageous is his conduct, that, when a son was born to him, he forgot to introduce him into the family of Hagnias, so as to make him son to Hagnias, although he was in possession of the estate of Hagnias, and although he claims relationship to Hagnias by male descent. This son, who was born to him, Macartatus has transferred, by the adoption of his maternal kinsman, to the Prospaltians,[2] and has suffered the family of Hagnias to become extinct, as far as the child is concerned; while he pretends that his father Theopompus stood in the proper degree of relationship to Hagnias. The law of Solon declares that males and the issue of males shall have the preference; and yet the defendant has thus slighted and set at nought both Hagnias and the laws of Athens, and has transferred his son by adoption into his maternal family. Could any persons be more lawless and audacious than these?

But this is not all, men of the jury. There is a place of sepulture common to all the descendants of Buselus; it is called the burial-ground of the Buselidæ; a large piece of ground enclosed, according to the ancient usage. In this ground lie all the descendants of Buselus, and, among them, Hagnias and Eubulides and Polemo; in short, all the relations, of whom there are a great number, whose common ancestor was Buselus; all of them have their place of burial here. But the father of the defendant Macartatus and his grandfather have had nothing to do with this burial-ground;

[1] Pabst renders it differently: "gehört dieser familie an."

[2] This explains what is said, ante (p. 9)—that Macartatus had no issue who was in the family of Hagnias.

they made a separate tomb for themselves, at a little distance from that of the Buselidæ. Do they appear to you, men of the jury, to belong to the family of Hagnias in any way, except this, that they have seized and usurped what does not belong to them? Whether the house of Hagnias and that of Eubulides, the first cousin of Hagnias, will become extinct and without a name, has never troubled them in the slightest degree.

I for my part, men of the jury, am doing all that lies in my power to vindicate the rights of those deceased relatives; though it is by no means easy to contend against the intrigues of these persons. I therefore deliver this boy into your hands, men of the jury, that you may protect him in such manner as you deem most just. He has been transferred by adoption into the house of Eubulides, and has been introduced to the clansmen, not to mine, but to those of Eubulides and Hagnias and Macartatus. And, when he was introduced, the rest of the clansmen gave their vote secretly, but Macartatus, the defendant, gave his vote openly, declaring that this boy was rightly introduced as the son of Eubulides; for he did not choose to lay his hand upon the victim or to remove it from the altar, and so render himself responsible; nay he received his portion of the flesh from this boy and took it away with him, as the other clansmen did. Consider this boy, men of the jury, as the sacred emblem of supplication, produced on behalf of the deceased Hagnias and Eubulides and the other descendants of Hagnias: consider that they are petitioning you the jurors not to let their house be desolated by these odious monsters, who are of the house of Stratius, and never came from that of Hagnias. Do not permit them to keep what is not rightfully theirs, but compel them to restore it to the house of Hagnias for the benefit of his relations. I am thus vindicating the rights of those deceased persons and the laws established on their behalf, and I pray you, men of the jury, I beseech and implore you—do not suffer this boy to be maltreated by his opponents—do not suffer his ancestors to be insulted still more grossly than they have been already; as will be the case, if these men accomplish their objects. Rather give your aid to the laws, and take thought for the dead, that their house may not become desolate. By so acting, you will give that verdict which justice and your oaths and your own interests require.

THE ORATION AGAINST LEOCHARES.

THE ARGUMENT.

ARCHIADES of Otryne died without issue, leaving his brother, Midylides, his heir at law. He being out of the country at the time, Leocrates of Eleusis, a sister's grandson, took possession of the estate of Archiades, under the pretence of being his adopted son, but without any legal right (according to the orator's statement,) because the pretended adoption took place after the great-uncle's death. Midylides however, on his return to Athens, was persuaded by his friends to waive his legal right in favour of Leocrates; who continued in quiet possession of the estate, until he thought proper to transfer it to his son Leostratus, entering him in the township and clan of Archiades, so as to constitute him his representative by adoption, while he himself returned to his original family. The same course was pursued at a later period by Leostratus, who retired from the adoptive house, as his father had done, and left his eldest son Leocrates to occupy his place. The second Leocrates having died suddenly without issue, and Aristodemus, grandson of Midylides, having claimed the estate as next of kin, Leostratus endeavours to defeat this claim, by creating a title in his younger son Leochares, and accordingly he takes the necessary formal steps to make him a son by adoption in his deceased brother's room. Such are the leading facts stated on behalf of Aristodemus, the plaintiff, whose cause is pleaded by his son Aristoteles.

In answer to the plaintiff's suit a plea is put in by Leochares, supported by his own affidavit, alleging that the estate was not the subject of litigation. This course was allowed by the law of Athens in favour of children, whether by birth or adoption; and the effect of it was, to delay the trial of the cause until the witness who swore the affidavit was convicted of false testimony, or the plea pronounced to be bad in law. Aristodemus here proceeds against Leochares to get his plea and affidavit quashed, and thus to enable himself to obtain a trial of the cause. The practice in such a proceeding resembled in some measure that on the trial of a *Paragraphe*. As in the latter the parties did not confine themselves to the questions raised by the special plea itself, so in the action to quash an affidavit of this kind the parties enter upon all the circumstances of the case, and explore their way to a final verdict.

It is contended on behalf of Aristodemus that he was entitled to the estate by the Attic law of succession. With respect to property inherited in this way there subsisted a sort of entail, so that, on the death of Leocrates without issue, the title reverted to the heirs of Archiades, from whom it originally came. Aristodemus was not only a nearer relation in degree than his opponents, but was preferable as being descended from a brother, while Leostratus was descended from a sister. Supposing even that Leocrates, who had

died seised of the estate, was to be regarded as the first purchaser, so that his heirs, and not those of Archiades, were entitled to succeed. Aristodemus was his nearest relative in point of law, because Leocrates had been transferred to the family of Archiades, that he might become his legal representative; Leostratus had renounced that family, and Leochares had never entered it; and, with reference to the present question, their natural relationship to the deceased could not be taken into account.

The court (it is argued) were bound to look at the state of things which existed at the death of Leocrates: this could not be altered by anything which had taken place *ex post facto*. Strictly speaking, it was not competent for Leocrates to adopt a son in his lifetime to represent Archiades; but, at all events, he had not done so, and undoubtedly his father could not nominate one for him after his death, much less after a suit had been commenced by the heir. The adoption had been altogether an afterthought on the part of Leostratus; for he at first intended to set up a title in himself; finding that this could not be done, he conceived the idea of putting his son's claim forward: but the law did not allow people to manufacture titles in such a way. The series of adoptions which had taken place before were objectionable in point of law, and they had only acquiesced in them because Midylides had been induced to forego his legal rights: now however the thing had come to an end, and the law ought to take its course.

The speaker labours to show that the affidavit is false and bad both in form and substance, and takes several technical objections to it. He urges also, that affidavits of this nature, designed to impede and delay the progress of a suit, and to prevent a case from being tried on its real merits, are proceedings of a vexatious character, and ought not to be favoured by the court.

A table of descent is annexed.

EUTHYMACHUS.

MIDYLIDES. — ARCHIPPUS. — ARCHIADES. (whose inheritance is contested.) — ARCHIDICE. (married to Leostratus.)

MIDYLIDES.
CLITOMACHE. (married to Aristoteles.)
ARISTODEMUS, (the plaintiff.)
ARISTOTELES, (conducts his father's case.)

ARCHIDICE.
Daughter.
LEOCRATES.
LEOSTRATUS.
LEOCRATES. — LEOCHARES, (the defendant.)

That Leochares the defendant is brought to trial, men of the jury, and that I, notwithstanding my youth, am addressing you, is owing to Leochares himself, because he claims to inherit that which does not belong to him, and has made a false affidavit in support of his claim before the archon. As we were the relatives of Archiades, who originally left the estate, and as the law gives the succession to those who are nearest of kin, it was incumbent on us not to suffer his family to become extinct, and not to allow other persons, who have no manner of title, to inherit his property. The defendant, who is neither the natural born son of the deceased, nor has been adopted according to the laws, as I will show, has recklessly made a false affidavit in order to deprive me of the inheritance. I beseech you, men of the jury, to give redress both to my father and to myself, if we can establish a good case, and not to suffer men who are poor and without influence to be oppressed by an iniquitous cabal. For we have come into court relying upon the truth, and shall be content if we are permitted to obtain our legal rights: our opponents have from first to last put confidence in the intrigues of their supporters, and in the expenditure of money: and I am not surprised at it; for they have no difficulty in spending the money of other people, and so they have provided a multitude of persons both to plead and to give false testimony in their behalf. My father—I will keep nothing back from you—comes to trial with the evident appearance of being a poor man (as you all know him to be,) and also of being inexperienced in the conduct of causes: for he has been for a long time a public crier in the Piraeus, and this is a sign not only that he is needy, like many other men, but also that he has no leisure for going to law: for a person carrying on such a business is obliged to spend the whole of the day in the market-place. From this you may reasonably conclude, that, if we did not rely upon a just title, we should never have come into court.

With respect to these general matters you will get still clearer information in the course of my address: I must now explain to you about the exceptive affidavit and the issue which you have to try. If, men of the jury, Leochares was going to establish his case for the defence out of the affidavit itself, and to show that he is the lawfully born son of

Archiades, there would be no necessity for many words, and no need for you to trace our pedigree to its origin. But as this preliminary objection bears a different aspect, and the argument of our opponents will be mainly directed to establish the fact of their adoption and their title, as lawfully born children, to succeed to the property by heritable right, it is necessary, men of the jury, on this account, that I should go a little back to explain the nature of the pedigree: for, when you have been fully instructed on this subject, it is impossible that you can be misled by their statements. The issue which you have to try is a disputed title to an inheritance: the claim on our part is, to inherit by descent; on theirs, to inherit by adoption. We admit before you that all adoptions ought to be valid, which are rightfully made according to law. Bear in mind these foundations of our respective claims; and if they can show you that the laws sanction what they have sworn in their affidavit, adjudge the estate to them; nay, even without such legal title, if their arguments appear to be in accordance with justice and equity, we will withdraw our opposition. But to convince you that we not only rely upon our title as next of kin, but upon every other ground besides, we will first inform you about the pedigree of the person from whom the inheritance comes: for I think that, if you carefully follow this part of the question, you will not fail to understand all the rest.

To begin with the common ancestor, men of the jury—Euthymachus of Otryne had three sons, Midylides and Archippus and Archiades; and a daughter, whose name was Archidice. After the death of their father, the brothers gave Archidice in marriage to Leostratus of Eleusis. Archippus, one of the three brothers, died while in command of a ship at Methymna: Midylides not long afterwards marries Mnesimache, the daughter of Lysippus of Crioa; and he has a daughter named Clitomache, whom he wished to give in marriage to his own brother, as he was still a bachelor; but, as Archiades said he did not choose to marry, and therefore allowed the property to remain undivided, and dwelt by himself in Salamis, Midylides after a while gives his daughter in marriage to Aristoteles of Pallene, my grandfather. And to them were born three sons, Aristodemus my father, who is here in court, and Habronichus my uncle, and Midylides, who is now dead

Such, men of the jury, is our title to the family estate by proximity of blood. For we were the nearest of kin to Archiades in the male line; and as we claimed according to this law to inherit this estate, and did not choose to let his family become extinct, we commenced our suit for the inheritance before the archon. Our opponents, holding the property unjustly, have put in their exceptive affidavit, relying in the main upon an adoption, but pretending also to be entitled by consanguinity. With respect to this adoption, we will show you plainly by and by what its character was: but first we must explain about the relationship, and show that we are nearer of kin than our opponents. One thing is admitted, that males and the issue of males have the best title to inheritances: for the law positively declares, that inheritances shall go to the nearest relations in the male line, when there are no children. We then answer this description; for Archiades is acknowledged to have died without issue, and we are his nearest of kin in the male line. Moreover, we are his nearest of kin also in the female line; for Midylides was brother to Archiades, and the daughter of Midylides was the mother of my father, so that Archiades, for whose inheritance we are now prosecuting our claim, is paternal uncle to my father's mother, having this relationship on the male side, not on the female side. Leostratus, our opponent, is in a degree further removed, and is related to Archiades on the female side; for the mother of Leocrates, his father, was niece to Archiades and to Midylides, from whom we derive our title to the inheritance.

First, men of the jury, to prove to you that I have described the pedigree correctly, I will have the depositions read; and after that he shall read the law itself, which gives inheritances to the nearest relatives in the male line: for these, I take it, are the principal points upon which the contest turns, and upon which you are sworn to pronounce your verdict. Please to call the witnesses up here, and read the law.

[*The witnesses. The law.*]

Such is their pedigree, men of the jury, and such is ours: and it is right therefore, that those who by the evidence alone have proved themselves to be nearest of kin should have the inheritance, not that the desperation of the party

making an affidavit should prevail against your laws. For, if they rely on the adoption, (the character of which I shall explain to you,) yet surely after the death of the adopted child, and when the family had until the commencement of our suit become extinct, it is right that those who are nearest of kin should get the inheritance, and that you should give redress not to those citizens who can command the greatest amount of influence, but to those who suffer wrong. If it had rested with us, after explaining the circumstance of the pedigree and the affidavit, to leave the platform, and there had been no occasion for us to say anything more, the most important part of my address being concluded, I should have hardly thought proper to have troubled you any further. As our opponents however will not rely upon the laws, but will contend that, having got the start of us at an early period and having entered upon the estate, these are proofs of their title to inherit, it is perhaps necessary that I should say something upon this part of the case, and show you how utterly regardless they have been of law and propriety.

To begin from the commencement, men of the jury—Midylides and Archiades give their sister in marriage to Leostratus of Eleusis : in course of time, from a daughter of their sister so given in marriage is born Leocrates, the father of our opponent Leostratus : mark how distantly related he is to Archiades, in respect of whose inheritance he has made his exceptive affidavit. Such being the state of things, Archiades did not marry ; Midylides, his brother and grandfather of my father, did marry. And they had not made any partition of their estate, but each of them having sufficient to live on, Midylides resided in the city of Athens, while Archiades took up his abode in Salamis. Some time afterwards Midylides, my father's grandfather, had occasion to travel out of the country, and during his absence abroad Archiades, being still unmarried, fell ill and died. What is the proof that he was still unmarried? A water-carrier[1] stands upon the tomb of Archiades.

[1] "From this passage," says Becker in the Charicles Transl. p. 484, "we learn that it was the custom to place some figure referring to water-carrying on the tomb of one who had died single, as a symbol of celibacy. That a girl is here intended, we learn from p. 1089, where Demosthenes says, ἡ λουτροφόρος, &c. We are elsewhere informed, that the symbol was merely a vessel for carrying water, in fact a black pitcher. Such vessels are to be found on sepulchral pillars. Never-

At this crisis Leocrates, father of the defendant Leostratus, under the plea of his relationship on the female side, causes himself to be adopted as son to Archiades, and so he entered upon the estate as if he had been adopted by Archiades in his lifetime. When Midylides returned to Athens, he was angry at what had occurred, and was inclined to take proceedings against Leocrates; however, by the persuasion of his friends, who begged him to let Leocrates remain in the family as the adopted son of Archiades, he allowed the thing to stand. It is not true that he was compelled to do so by an adverse verdict; he gave his consent, mainly because he was deceived by these persons, and partly also in compliance with the wishes of his friends.

After this occurrence Midylides died; Leocrates inherited and enjoyed for many years the estate of Archiades, as if he had been his adopted son: we, in consequence of the consent of Midylides, made no stir in the matter. Time however went on—and now, men of the jury, pray attend carefully to what I am about to tell you. Leocrates, who had thus become the son of Archiades, returned himself to the Eleusinians, to whose community he originally belonged, leaving this Leostratus, a lawfully born son, in the family of Archiades. Even then we did not attempt to disturb the arrangement concerning the inheritance, but acquiesced, as we had done before. But afterwards this Leostratus himself, though he was an adopted son and had been left in the family of Archiades, returns, as his father had done, to the Eleusinians, leaving an adopted son in his place; so that the original adoption was, contrary to the laws, transmitted through three persons. Contrary to the laws it was unquestionably, when a person who had himself been adopted returned to his original family leaving adopted sons in his place. And he has continued to carry on this game down to the present time; and by such means they imagine they can deprive us of the in-

theless this sense of the word is distinctly contradicted by Pollux, viii. 66: *Τῶν δὲ ἀγάμων λουτροφόρος τῷ μνήματι ἐφίστατο κόρη, ἀγγεῖον ἔχουσα ὑδροφόρον.* This testimony is confirmed by the paintings on some Volscian vases, representing girls carrying water; and the inscription over one of them, ΚΑΛΙΡΕ ΚΡΕΝΕ, leaves no doubt as to the signification."

I have already spoken of the custom of the bride and bridegroom taking a bath in water of the fountain Callirrhoe.

heritance, while they traffick with the estate of Archiades and maintain their children out of it, and continually return from that to their paternal estate, keeping the one intact and spending the other.

However, notwithstanding the irregularity of their proceedings, we submitted to it all. Till when? Till Leocrates, who had been left as an adopted son in the family of Archiades, died without issue. Upon his death without issue, we, who are the nearest of kin, claim to inherit the property of Archiades; and we say, they cannot, in order to defraud us of our rights, give an adopted son to the deceased, who was himself adopted. If indeed he himself adopted a son in his lifetime, although the proceeding was contrary to law, we say nothing against it. But, as he neither had a natural born son nor adopted one in his lifetime, and as the law gives inheritances to the nearest of kin, is it not clear that in a double point of view our title against them is good? For we are the next of kin both to Archiades, the original owner of the estate, and to the adopted Leocrates: for his father, having returned to the Eleusinians, divested himself of his legal relationship, while we, into whose family he had entered, stood in a close relationship to him, namely, that of cousins' children. If you like therefore, we claim to inherit as the kinsmen of Archiades, or, if you like it better, we claim as the kinsmen of Leocrates: for, as he died without issue, there is no one nearer of kin than we are. And as far as you are concerned, Leostratus, the family has become extinct; for you looked to maintain connexion with the property, not with the persons who adopted you. For example—after the death of Leocrates, as long as there was no claim to the estate, you found no adopted son for Archiades; but, now that we are come forward as relations, you create an adopted son, in order that you may get possession of the property. And you say there was not anything left by Archiades, into whose house you were adopted; yet you put in an affidavit to bar our suit and to exclude his acknowledged kindred. What is the meaning of it? If there is no property in the house, how are you the loser by our inheriting this nothing?

Such is his impudence, such his covetousness, men of the jury, that he thinks he is entitled to return to the Eleusinians and keep his paternal estate, and at the same time to keep

possession of that to which he succeeded by adoption, although he has no son in the family. And all these things he manages without difficulty; for, as he can spend the property of other people, he has a great advantage over us, who are poor and helpless: therefore I consider, men of the jury, you are bound to lend assistance to us, who have no desire to encroach upon the rights of others, but are content if people let us enjoy the protection of the law. What are we to do, men of the jury? When the adoption has vested in three successive persons, and the person last left in the family has died without issue, are we not to recover our own property at last? Relying upon this just claim, we commenced our suit for the estate before the archon. Leochares, the defendant, having recklessly sworn a false affidavit, thinks proper to set the laws at defiance and rob us of our inheritance.

First, to prove the truth of our statements about the adoptions and the pedigree of these men, and that the water-carrier stands on the tomb of Archiades, we wish to read to you these depositions. After that, we will lay the rest of the case clearly before you, and prove the falsehood of the affidavit sworn by our opponents. Please to take the depositions that I mention.

[*The depositions.*]

I have shown you the nature of this case, men of the jury, and the plain points of law regarding the inheritance; and you have heard pretty nearly an exact summary of all that has taken place from the beginning. I consider it necessary also to tell you what they have done since the suit for the inheritance commenced, and in what manner they have treated us: for I don't think any persons have been so iniquitously oppressed as we have in an inheritance cause.

When Leocrates died and his funeral took place, we went to take possession of his effects, as he had died without issue and unmarried; Leostratus removed us, saying that they belonged to him. And he prevented our performing any of the last offices to the deceased, which, as he was his father, may have been excusable, though the act was contrary to law; for it was proper that the care of the funeral should be committed to the natural father, though not indeed to the exclusion of us members of the family, to whom the deceased

was related by virtue of the adoption. But, after the funeral ceremonies were completed, by what law could Leostratus, when the family was extinct, turn us, the next of kin, out of possession of the property? Because he was father to the deceased, he will say. Yes; but he had retired to his paternal family, and was no longer owner of the estate, which he had renounced in favour of his son. If this be not so, what is the use of the laws?

Well; after we had been turned out of possession, (to pass over a great deal,) we commenced our suit for the inheritance before the archon, the deceased having left no son of his body, as I have already mentioned, and not having adopted any according to the laws. Upon this, our opponent Leostratus makes a deposit for costs, as being the son of the aforesaid Archiades, not taking into consideration either that he had returned to the Eleusinians, or that adopted children are created such not by themselves, but by those who adopt them: in fact, I take it, he had but one idea in his head, that he must lay claim to the property of other people by every possible means, fair or foul. And first he came and was hardy enough to enter his name in the assembly list of the Otryneans, he being a townsman of Eleusis; and this he managed; then, before his name was entered also in the heritable list of the Otryneans, he attempted to take a share of the public distributions; to such a flagrant breach of law was he impelled by his covetousness. We, discovering what he was about, called people to witness and stopped it, and insisted that the right of inheritance ought to be decided by your verdict, before any one was nominated as adopted son of Archiades. Yet, though he had been baffled and convicted of fraud in the presence of many witnesses, as well in the affair of the township list,[1] as at the assembly for the election of officers,[2] he still persisted in his outrageous conduct, and resolved to defeat your laws by his intrigues. What is the proof of this? He got together some few of the Otryneans, and persuades the prefect, at the opening of the register, to enter his name. And after that he came at the festival of the great Panathenæa, when the distribution took place, to

[1] Pabst: "ausser in der Sache mit der Liste."

[2] *i.e.* Officers of the township. See Schömann, Antiquitates Juris Publici Græcorum, page 204.

get his theoric allowance; and, when the rest of the townsmen were receiving it, he asked that it should be given to him also, and that his name might be entered in the register as the son of Archiades. As we protested against it, and all the rest of the townsmen said that the proceeding was shameful, he went away without either having his name registered or getting the theoric allowance.

Don't you think that a man, who contrary to your decree demanded the theoric allowance before he was registered among the Otryneans, he being a member of another township, would lay claim to an inheritance contrary to the laws? How is it likely that a man, who before the decision of the court sought to obtain these unjust advantages, relies upon the merits of his case? It is manifest that a person, who fraudulently claimed the theoric allowance, has the same designs now with respect to the estate. Why, he deceived even the archon when he made his deposit for costs, and alleged in his answer to our claim that he was a member of the Otrynean township, being then in fact a townsman of Eleusis. As he failed however on all these occasions, he made a fresh attempt at the late election of officers; he got some of the townsmen on his side, and then demanded to be registered as the adopted son of Archiades. We remonstrated, insisting that the townsmen should give their votes after the decision of the inheritance suit, and not before: to this they assented, not of their own good will, but out of regard for the laws; for it appeared shameful to them, that a person, who had made a deposit for costs in a suit for the inheritance, should nominate himself as an adopted son while the question was yet undecided.

But what Leostratus contrived after this is the most atrocious thing of all. As he failed to get himself registered, he makes his son Leochares the adopted son of Archiades contrary to all the laws, before the scrutiny of the township had taken place. Leochares had not yet been introduced to the clansmen of Archiades; but, after he had been registered in the township, Leostratus, exerting influence with a certain member of the clan, entered his name in the clan register. And after that, in the affidavit before the archon he sets down Leochares as having been many years the lawfully born son of the deceased—Leochares, who was registered only the other

day! And the result is, that they both lay claim to the inheritance: for Leostratus made deposit for costs in the inheritance suit, as being the lawfully born son of Archiades, and Leochares in his affidavit represents himself to be the lawfully born son of the same father. Yet each of them makes himself an adopted son, not of the living, but of the deceased. We, men of the jury, considered it would be right, after you had pronounced your verdict in this cause, to find an adopted son for the deceased out of our nearest kinsmen, so that the family might not become extinct.

First, men of the jury, to prove that our opponent Leostratus returned from the township of Otryne to that of Eleusis, leaving a lawfully born son to represent Archiades—and also, that his father had done the same thing before, and that the son left in the family has died without issue—and that the person who has now sworn the affidavit was entered in the register of the townsmen before he was entered in that of the clansmen—to prove these things, he shall read you the depositions of the clansmen and those of the townsmen: and all the things which I have been speaking of, which these persons have done, shall be proved in like manner; you shall have evidence of every particular. Please to call the witnesses this way.

[*The witnesses.*]

You have now heard all the facts of the case, men of the jury; both the original proceedings in the affair of this inheritance, and what occurred subsequently, as soon as we commenced our suit. I have yet to speak of the affidavit itself, and of the laws, by virtue of which we claim to inherit; and further, if the water is sufficient and it will not be troubling you too much, to show you that the arguments which our opponents will urge are neither just nor true. And first let him read the affidavit: I beg you to give it your best attention; for it is upon this you will have to pronounce your verdict.

[*The affidavit.*]

The defendant then has sworn, as you have heard, "that the inheritance of Archiades is not the subject of contest, as he had lawfully born children of right belonging to him according to the statute." Let us inquire if he had such

children, or if the defendant's affidavit is false. Archiades, who left the estate, adopted as son the grandfather of the person who has sworn this affidavit: he, leaving a lawfully begotten son, namely, the defendant's father Leostratus, in the adoptive house, returned to the Eleusinians. Afterwards again this same Leostratus went back to his paternal house, and left a son in the adoptive; and the son whom he left, and who was the last of the adopted children, has died without issue, so that the family becomes extinct, and the inheritance has again reverted to those who were originally the nearest of kin. How then can there be any longer (according to the affidavit) any sons of Archiades, whose adopted children have confessedly returned to their original family, while the one last left to represent him has died without issue? It follows of necessity that his family is extinct. But, since his family is extinct, he can no longer have lawfully born sons. The defendant therefore has sworn that non-existent persons exist, and he has written in his affidavit "as he had children," pretending that he himself is one of them. Undoubtedly, when he says "lawfully born" and "of right belonging to him according to the statute," he is cheating and evading the laws. For "lawfully born" applies to a son of the body; as the law proves, when it declares, that lawfully born sons are those of a woman, who has been affianced by her father or brother or grandfather. The expression "of right belonging" the legislator understood of adoptions, considering that when a man, being childless and having a right to dispose of his property, adopts a son, his act ought to be deemed rightful. The defendant however does not pretend that Archiades had any son of his body, but has put in his affidavit the words, "as he had lawfully born children," swearing that which is contrary to the fact. He admits that he is an adopted child, yet he is shown not to have been adopted by the deceased himself; how then can you maintain any longer, that this is a rightful act according to the statute? Oh, because he has been registered as the son of Archiades! Yes, by the violent act of these men, done only the other day, after the suit for the inheritance was pending. It can never be just to regard a wrongful act as evidence for a party.[1]

[1] It is a maxim of our law, that "a man shall not take advantage of his own wrong."

Just consider, men of the jury: is not this monstrous, that the defendant, though in his speech he will say presently that he is an adopted son, should not venture to put this in his affidavit; but, that while the affidavit is drawn as if for a son of the body, the speech that you will hear presently will make out a case for an adopted son? If in addressing you they set up a defence contrary to the affidavit, is it not clear that either what they say or what they swear must be false? They had pretty good reason for putting nothing about the adoption in their affidavit: for they must have inserted the name of the adoptive father; but the supposed father never did adopt them; they adopted themselves, in order to deprive us of our inheritance.

To go to the next point—is it not both monstrous and absurd, that this Leostratus, when he made his deposit for costs in the inheritance suit before the archon, should have represented himself as the son of Archiades, he himself being a townsman of Eleusis, while Archiades was of Otryne; and that another party should have sworn the affidavit, as you see, and declared that he is the son of Archiades? To which of you, I ask, are we to give credence? This very circumstance is the strongest proof of the falsehood of the affidavit—namely, that two parties, and not one, are making the same claim against the same adversary. I am not surprised at it. For I suppose, when Leostratus made his deposit for costs against us, he had not yet sworn an affidavit, and it is since that he has been entered in the register of the townsmen.[1] We should therefore be most cruelly treated, if you were to believe an affidavit which has been sworn at so late a period.

Nay more, Leochares has sworn to facts older than himself. How can a person know any of these matters, who had not become a member of the house of Archiades, when the suit for the inheritance was commenced? And if he had sworn it of himself only, there might have been some reason in the thing: his statement would have been incorrect, yet still it would have concerned the party swearing, and been what, from his age, he might have known. As it is, however, he has averred that Archiades had lawfully born sons, meaning his father and himself according to the original adoption, and not taking into consideration that they had returned to

[1] The original is corrupt.

their original family. It follows therefore that in his affidavit he has sworn to facts older than himself, and not to things which have occurred in his own time. And can you rely on the word of a person who has been hardy enough to do this? Oh, but he swears to what he has heard from his father. That won't do. The law forbids you to give what you heard from your father as evidence of his acts during his lifetime.[1] And again—why did Leostratus have the affidavit headed with his son's name instead of his own? The older man should have deposed to the older facts. "I did so"—perhaps he may say—"because I have transferred my son by adoption to Archiades." Then you who transferred him and concocted the whole affair ought to have rendered an account of it, and made yourself responsible for your acts: that was your bounden duty. But that you shrank from, and headed the affidavit with the name of your son, who knew nothing about the matter. It is clear therefore to you, men of the jury, that the contents of the affidavit are untrue; indeed it is acknowledged by these men themselves. And when Leostratus comes to address you presently, it is scarcely right that you should hear him making statements which he dared not vouch for by his oath.

Of all methods of trial this by an exceptive affidavit is the most unjust, and the parties who resort to it are the most deserving of your displeasure, as you will see clearly from what I am about to say. In the first place, it is not necessary, as other processes are; it takes place only by the choice and desire of the party who swears the affidavit. If there is no other way of getting judgment upon disputed claims, unless you swear an affidavit of this sort, it is perhaps necessary to swear one. But, if it is possible to obtain a hearing before all tribunals without an exceptive affidavit, is not such a step a mark of recklessness and complete desperation? The legislator did not make it obligatory on the contending parties; he allowed them to put in an exceptive affidavit, if they pleased, as if he were putting our several characters to the proof, to see how far we are inclined to a reckless course of action. Observe also; if parties putting in these affidavits had their way, there would be neither courts of justice nor causes for them to try; for it is of the very essence of ex-

[1] According to Schömann's emendation, Attic Process, 669.

ceptive affidavits to put a stop to all proceedings, and to prevent questions being brought before the court; such (at least) is the intention of the parties who swear them. Therefore, I consider, such persons ought to be regarded as the common enemies of all, and ought never to find any favour when they are on their trial before you: for they have each of them elected to incur the risk of the oath, and come into court without compulsion.

That the affidavit then is false, you have gathered pretty plainly both from its contents and from the arguments which have been addressed to you. That by the laws we are entitled to this inheritance, men of the jury, I will show you in a few words; not that I have not already explained it to you sufficiently, but I wish that you should have the rights of the case fairly in your minds, to meet the fallacies that will be urged on the other side.

To present the case to you in a short compass—we being the nearest of kin in the male line to Archiades, by whom this estate was left; some of the persons whom he adopted having returned to their paternal family, and the person who was last left to represent him having died without issue; under these circumstances we claim to inherit, not so as to deprive Leostratus of any property, (for these men have what belongs to them,) but because the estate of Archiades was left to go to his heirs, and because it is ours by law. For the law, men of the jury, declares, that males and the issue of males shall have the preference; and we answer that description. Archiades had no children; and we are his remaining kindred.

Besides this, it is surely not just, that an adopted son should introduce other adopted sons into the family: he may leave born children in it; but, on failure of such issue, he must restore the inheritance to the blood-relations. This is what the laws require. For is it not manifest, that every one of you is excluded from heritable rights, if this privilege is accorded to adopted children? You see how many persons adopt sons under the influence of flattery, or from a spirit of opposition, because they have quarrelled with their relatives. If now an adopted son were at liberty, contrary to the law, to create an adopted son at his pleasure, the inheritances will never be given to the relations. To guard against this consequence, the legislator forbade a person who was himself

adopted to create a son by adoption. In what manner did he declare his intention? When he says, that a man may retire leaving a lawfully born son in the family from which he retires, he declares plainly enough, that he may not adopt; for it is impossible for a man to leave a lawfully born son, unless he has a son of his body. You however, Leostratus, claim the right of bringing an adopted son into the inheritance in place of the deceased, who was adopted into our family; just as if you were entering upon your own estate, and not one which by law belongs to the nearest of kin.

Our view of the matter is this, men of the jury. If the deceased had adopted any one, although the law does not allow it, we should have submitted; or, if he had left a will, we should have acquiesced in that: such has been our conduct from the beginning; we have made no opposition to these men keeping the estate, and returning to their paternal house in what manner they pleased. But, now that the thing has been exposed by these men themselves and by the laws, we think it right that we should inherit the estate of Archiades, and that the new adopted son should come from us who have not been adopted before, not from these persons. For it was with justice, I consider, that the legislator, as he required the nearest of kin to relieve the misfortunes of their relations and to give marriage portions to the females, assigned to them in like manner the right of inheriting and partaking the good things. But what is the most important point of all, and most familiar to you, is this—the law of Solon does not allow an adopted person even to bequeath by will that property which he finds in the house at the time of his adoption: and there was reason, I think, in the regulation: for a person, who acquires the property of another by adoption according to law, ought not to deal with it as he would with his own private property: he ought to act consistently with the laws, and in every particular as the law prescribes. Those who had not been adopted when Solon entered into office may, he says, dispose of their property by will as they please; those who were adopted are not at liberty to dispose of their property by will; they may return in their lifetime to the paternal house, leaving a lawfully born son in their place; but, in case of death, they must restore the inheritance to those who were the original relations of the adoptive father.

AGAINST STEPHANUS—I.

THE ARGUMENT.

Apollodorus, the son of Pasion, sues Stephanus for having given false testimony in the action which the plaintiff brought against Phormio; as to which I must refer to the speech in defence of Phormio, Volume IV., page 202. In answer to that action, which was to recover a sum of banking stock, Phormio had put in two special pleas; upon the trial however he had, as was usual, entered into the general merits of the case, and given in evidence the will of his late master, Pasion, which directed that he should marry the testator's widow, Archippe, and receive with her certain property as a marriage portion. To establish that will, Stephanus and two other persons made a joint deposition, in the terms following:

"Stephanus—Endius—Scythes—depose, that they were present before the arbitrator Tisias, when Phormio challenged Apollodorus, if he denied that the document which Phormio put into the box was a copy of the will of Pasion, to open the will of Pasion, which Amphias, brother-in-law of Cephisophon, exhibited to the arbitrator; and that Apollodorus did not choose to open it; and further, that the said copy was a copy of the will of Pasion."

A copy of the supposed will was annexed to the deposition.

Apollodorus denies that any such challenge ever took place, or that his father left such a will.

To disprove the story of the challenge, he relies mainly upon two arguments. First—it was improbable in itself; because it would have been folly in him to refuse the challenge, when a copy of the alleged will was annexed to the deposition of Stephanus; the effect of which would have been, that, while evidence of the will was not excluded, he would lose the benefit of its being proved by the direct testimony of the person producing it. Secondly—the depositions had been written on a whitened board or tablet, which showed that it was false; for evidence was only written on such material, when it was prepared by the party at home, and brought with him to the magistrate's office; but challenges were not prepared beforehand, but were drawn up at the moment, *pro re natâ*, and therefore commonly written for convenience on a waxen tablet. (As to this, see Becker's Charicles, Scene IX., note 12, and what I have said under title *Martyria* in the Archæological Dictionary.)

The annexing of a copy of the will to the depositions of Stephanus was, as the plaintiff contends, a trick on the part of Phormio, to avoid giving direct proof of the will by an attesting witness, or by some person who was present at the publication of the will by the testator or the opening of it after his death. The will was sought to be

established by a series of circumstantial proofs. Amphias produced before the arbitrator a copy of a supposed will of Pasion, which he had received from Cephisophon, his brother-in-law. Cephisophon only proved that a document had been left him by his father, on which was inscribed "the will of Pasion;" he did not know whether it was genuine or not. There was no further evidence but that of Stephanus and his co-deponents, who, although they knew nothing about the making of the will, declared in express terms, that the copy annexed to their deposition "was a copy of the will of Pasion."

The argument of the plaintiff upon this point is by no means consistent, and not very clear; perhaps it was not intended to be so. He strongly urges that by the terms of the deposition Stephanus is responsible for a positive assertion that the writing in question was a copy of Pasion's will; otherwise the words should have been not "the will of Pasion," but "the writing or document said to be the will of Pasion," or "produced by Phormio as the will of Pasion," or something to that effect. At the same time however he says it was a trick to escape responsibility, and anticipates the defence which Stephanus was likely to set up; namely, that he had intended to prove a challenge only, and not a will, and that, with respect to the exhibit annexed, it was manifest by the context that all he meant was, to identify it with the copy before referred to in the deposition, the copy, that is, which Amphias had produced. This, says the orator, would be an idle subterfuge; the witness was bound by the express terms of his evidence, of which Phormio had had the benefit by reading the copy, as Pasion's will, to the jury.

Supposing that the other construction was the true one, and that Stephanus, by the terms of the deposition, was to be understood as repeating only what Phormio had told him, he would still be liable to an action, as the law did not allow hearsay evidence, or permit any party to give evidence for himself, which Stephanus would be enabling Phormio to do, if he could prove a will in the way suggested. The orator cites a statute, making a man liable to a suit for false testimony, who gave evidence in a manner contrary to law.

Stephanus would probably urge, that the proof of the will was not necessary or material to Phormio's success in the former action, as the question then turned entirely on the special pleas, and mainly that of the release, which Phormio fully established. To this the plaintiff answers, that it was the practice of the Athenian courts to hear the whole merits of the case upon the trial of a *Paragraphe*, that Phormio had actually gone into the merits of the case, and that the evidence which he had offered thereupon had powerfully prejudiced the jury against the plaintiff. It was the business of the defendant to clear himself of the present charge by showing that the evidence which he had given was true. He could not escape by showing that other testimony had been more hurtful to the plaintiff than his own. Nor again was he at liberty to discuss any of the other questions which were raised in the cause between Apollodorus and Phormio; he must confine himself to the simple questions raised in the present cause—whether he gave the evidence in the deposition—and whether it was true or false.

With respect to the will—besides that there was no direct proof of its execution by persons who had any knowledge of their own—many circumstances conspired to throw suspicion upon it. Why was it first shown, after the testator's death, to Phormio, and not to Apollodorus, who, as Pasion's heir, was entitled to be present at the opening of it? Phormio had taken advantage of the plaintiff's absence on the public service, to enter into possession under the will, and marry Archippe, who was only too ready to assist in the fraud. The terms of the will itself showed it to be a forgery. It was not likely that Pasion would give his wife in marriage to his former servant, who was not at that time a citizen of Athens; much less with so large a dowry. The will too was inconsistent with the lease of the bank by Pasion to Phormio, which Phormio himself had produced, and which (though tainted with fraud) argued at all events some distrust of Phormio on the part of the lessor; for it contained a clause forbidding him to carry on the business of the bank without the consent of Pasion's sons; whereas the will implied unlimited confidence in Phormio; for it gave to him, as Archippe's husband, all the property in the house which she had in her custody, so as to preclude the children from searching or inquiring after what was left. Again—the will was illegal in its character for several reasons; first, because Pasion had received the gift of citizenship from the people, and therefore had no power to make a will; secondly, because he could not give Archippe in marriage without the consent of her natural guardian; and thirdly, because he left sons surviving him. He must indeed have been insane to make such a will, and the will on that account alone would be void. These were good reasons for concluding that he never made it at all; that, in fact, it was a forgery, and therefore the evidence of Stephanus was false.

Phormio—it is further contended—was deeply interested in supporting the will, not merely on account of the legacies which he took under it, but because it enabled him to conceal the frauds which he had committed. Stephanus was in league with him, from corrupt motives, and therefore had not scrupled to give wilfully false testimony against the plaintiff, although he was connected with him by marriage. This, according to Athenian sentiment, was an aggravation of his offence; for the Athenians excused a man for being reluctant even to give true evidence against a relation. Stephanus, in his eagerness to serve Phormio in the action brought against him by Apollodorus, had gone so far as to steal from the evidence box an important deposition which the plaintiff had put in. If he would do such a thing as this, of course he would have no hesitation to give false evidence. He was an avaricious person, who cared for nothing but money, and was subservient to Phormio on account of his wealth.

After animadverting upon the character of Stephanus, the plaintiff proceeds to assail with bitter invective the character of Phormio himself, whom he describes as a person of barbarous origin, and addicted to the grossest vices; who had requited his master's kindness, (which had raised him from servitude to his present position,) by seducing his wife, embezzling his property, and robbing his son. To account for the circumstance that his brother Pasicles had taken

Phormio's side against him, he openly declares his conviction that Pasicles was the son of Phormio, and therefore his (the plaintiff's) enemy. The reader, bearing in mind that Demosthenes is reported to have changed sides, will examine with some interest the different ways in which the conduct of these parties is represented by the orator, according as he is engaged on the one side or on the other.

Having been oppressed, men of the jury, by false testimony, and having been outrageously and cruelly wronged by Phormio, I am come to recover justice in this court from the authors of the injury.

I beg and implore of you all, in the first place, to give me a favourable hearing; (for it is a great thing for those who have been unfortunate like me, to be able to speak of their sufferings, and to find friendly listeners in you;) and in the next place I entreat, that, if you think I have been wronged, you will give me the redress which I am entitled to. I will show you that Stephanus the defendant has both given false evidence and has done so from a corrupt motive, and also that he is his own accuser; so transparently clear is the case. I will endeavour to relate to you in the shortest possible compass all that has taken place between Phormio and myself from the beginning. From this narrative you will see both Phormio's baseness and the falsehood of the testimony which these men have given.

A large property was left to me by my father, men of the jury. Phormio had got possession of it, and, in addition to that, he had married my mother while I was absent on the public service in command of a trireme: with respect to the circumstance of this marriage, it is hardly right that I should be very explicit, considering that I am speaking of a mother. Upon my return home, when I learned what had taken place and saw it indeed with my own eyes, I was exceedingly angry and indignant: I could not commence a private action, as there were no actions at that time, all such business being postponed on account of the war; but I preferred an indictment against him before the Judges for outrage and abuse. Time wore away however; the indictment was evaded, and there was no action to be had; and meanwhile my mother bore children to Phormio: and after that, (for the whole truth shall be disclosed to you, men of the jury,) my mother made frequent overtures for reconciliation, and entreated me

to forgive Phormio, and many overtures were addressed to me by Phormio himself with all becoming humility. To cut the matter short, men of Athens—I found at last, that Phormio did not choose to perform any of the promises which he then made, and attempted to deprive me of the banking stock which he then had in his possession; so I was compelled to commence an action against him at the earliest opportunity. Phormio, seeing that everything would come to light, and that he would be proved to have acted like a scoundrel towards me, contrives the plot, which Stephanus the defendant helped him to carry out by giving false testimony against me.

In the first place, Phormio put in a special plea in bar of the action which I had brought against him. Secondly, he called false witnesses, who stated that I had released him from all claims, and deposed to a certain forged lease, and a will which never had existed. He got the advantage of the opening speech, by reason of there having been a special plea and the case not coming to trial upon the general issue; then, having read these pieces of evidence, and made a variety of misrepresentations to suit his case, he made such an impression on the jury, that they would not hear me speak a single word. Failing to get a sixth part of the votes, I of course incurred the penalty of such failure; I was not permitted even the benefit of a hearing; I don't think any man was ever before so treated; and I left the court, men of Athens, in high dudgeon and displeasure. Upon reflection however, I see that there was a good deal of excuse for the jury who gave that decision, (for I know not what other verdict I could myself have given, if I had been unacquainted with the facts and had heard the evidence only,) and I think that our anger should fall on those persons, who brought about the result by their false testimony. Of the other witnesses I will speak, when their trial comes on; of the evidence of the defendant Stephanus I will at once proceed to give you an account. Take the original deposition and please to read it, that by its very language I may establish the charge. Read—and you, stop the water.

THE DEPOSITION.

"Stephanus, son of Menecles, of Acharnæ, Endius, son of Epigenes, of Lampra, Scythes, son of Harmateus, of

Cydathenæum, depose, that they were present before the arbitrator, Tisias of Acharnæ, when Phormio challenged Apollodorus, if he denied that the document which Phormio put into the box was a copy of the will of Pasion, to open the will of Pasion, which Amphias, brother-in-law of Cephisophon, exhibited to the arbitrator; and that Apollodorus did not choose to open it; and further, that the said copy was a copy of the will of Pasion."

You have heard the deposition, men of the jury; and I think, if you have not observed anything else yet, this at least must have struck you as being a strange thing, that the deposition commences with a challenge and ends with a will. I shall have something myself to say about this, when I have shown what may be called the principal feature of the testimony to be false; to which I shall first address myself. It is deposed by them, as you see, that Phormio challenged me to open the will, which Amphias, the brother-in-law of Cephisopon, exhibited to the arbitrator Tisias; and that I did not choose to open it; and that the will which they themselves have deposed to is a copy of that: and then the will is set out.[1] Now, as to the question whether Phormio gave me that challenge or not, and whether the will is a true or a false one, for the present I say nothing; I will discuss those matters by and by: but let us consider their statement. that I did not choose to open the document. Look at it in this way—For what purpose would any man have declined to open the document? In order (I suppose) that the will might not be disclosed to the jury. Very good. If these men had not given evidence both of the challenge and the will, there might have been some reason in my declining to open the document: but when they gave evidence of both, and the jury would hear the contents of the will all the same, what did I gain by my refusal? Nothing surely. On the contrary, men of Athens, even if these persons had given no challenge, but had only talked about the matter, and some one had produced a writing to them as a will, it was my business to challenge them and open the will, so that, if the contents had been different from what these men stated, I

[1] I follow Seager and Schäfer. Pabst understands it very differently—"Hernach wird der Ausdruck Testament gebraucht." It appears from what follows, that a copy of the will was annexed to the deposition.

might at once have called several of the bystanders to witness the fact, and drawn the inference from it that the rest of their tale was concocted; or, if the contents agreed, I might have required the person who produced it to give evidence, and, if he had consented, I should have had a responsible witness, if he declined, his very refusal again would have been abundant proof for me that the thing had been fabricated. And the result was, that in that way I had one person to deal with while, as these witnesses have represented it, I had many Is there any one among you, who would have preferred the latter? I should imagine, none. Then you ought not to believe it of any one else. Where indeed, men of Athens, anything is done in anger or from a corrupt motive, or under strong excitement, or in a spirit of jealousy, one person will do it in one way and another in another, according to his natural disposition: where however nothing of this sort occurs, but measures are taken from a calm calculation of advantage, it is different; no one would have been so foolish as to disregard his interest, and do that which would weaken his chance of winning the cause? Yet this is what the witnesses have said of me; they represent me to have done what is neither reasonable nor probable, in fact, what no human being would have done.

And it is not only from their having stated that I was unwilling to open the document, that this falsehood is apparent, but also because in the same deposition he speaks to a challenge and a will. For I suppose you are all aware, that challenges were devised for those transactions, which it is impossible to bring actually before you: for example, one cannot put to the torture in your presence; it is necessary to have a challenge for such a matter: again, if anything has been transacted and done out of the country, it is necessary for this that there should be a challenge, to sail or go to the spot where the thing occurred: and so for other matters of the like description. But where it is possible to exhibit the things themselves bodily before your eyes, what could be simpler than to produce them? Now my father died at Athens, and the arbitration took place in the painted portico, and these witnesses have deposed that Amphias exhibited the document before the arbitrator. Then, if it was true, the document itself ought to have been put into the box, and

the person who produced it should have proved it in evidence, so that the jury might have formed their judgment according to the truth and after inspection of the seals, and I, if any one had wronged me, might have proceeded against him. As it is, however, no single person has taken the whole thing upon himself, or given testimony in a plain and open manner, as a witness of truth would do; but each of them has proved a part of the story, imagining he has been very cunning and will escape punishment in this way; one of them saying, that he has a document in his possession, on which is written "the will of Pasion;" another, that he was sent by the former person to produce and did produce it, but could not say whether it was genuine or not. Stephanus and his fellow-deponents, under the pretext of proving a challenge, have given evidence of a will, in such a way indeed as to make the jury believe that the will was my father's, and to prevent my obtaining a hearing on the subject of my wrongs, yet not so cleverly but that this falsehood must and will be detected, although they thought otherwise. To prove the truth of my statements, take the deposition of Cephisophon.

THE DEPOSITION.

"Cephisophon, son of Cephalon, of Aphidna, deposes, that a document was bequeathed to him by his father, on which 'the will of Pasion' was inscribed."

It was an easy thing then, men of the jury, for the person who gave this evidence to add "and the same document is that which the deponent exhibits," and to put the document into the box. But he thought probably, that such a falsehood as this would rouse indignation, and that you would punish him for it; whereas to give evidence of a document having been bequeathed to him was a trifle of no importance. And yet this is the very thing which convicts these people, and shows that they have concocted the whole scheme. For if the inscription on the will had been "of Pasion and Phormio," or "in the matter of Phormio," or anything of that sort, it would have been reasonable that he should keep it for Phormio: but if, as he has testified, the inscription was "the will of Pasion," why should not I have got it into my own hands, when I knew that I was about to go to law, and when I knew that, if its contents were such as they repre-

sent, it was adverse to my interests? Of course, if it was my father's will, it belonged to me, as well as all the rest of my father's property, by right of succession. By its being produced therefore to Phormio—by its having been inscribed "the will of Pasion"—and by my not having taken it into my own hands—the forgery of the will and the falsehood of Cephisophon's evidence are fully established. But never mind Cephisophon: I have nothing to do with him at present, and he has given no evidence touching the contents of the will; though indeed, men of Athens, I would beg you to consider, how strong a proof this is, that the deposition which I am now impeaching is untrue. For when the witness, who says that he has the document in his keeping, has not ventured to say, that the document which Phormio produced is a copy of that in his own possession; and when these witnesses cannot say that they were originally present, and did not see the document opened before the arbitrator, but have even themselves declared that I was unwilling to open it; in deposing that this is a copy of the other, have they not accused themselves of falsehood? is it possible to arrive at any other conclusion?

Besides, men of Athens—if you examine the terms of the deposition, you will see, that it is a mere contrivance to make it appear in some way or other, (they don't care how), that my father published this will. Take the deposition itself, and read, stopping where I tell you, that I may show by its terms what its character is.

THE DEPOSITION.

"Depose that they were present before the arbitrator Tisias, when Phormio challenged Apollodorus, if he denied that the document was a copy of the will of Pasion—"

Stop. Observe that the words are, "the will of Pasion." Now persons desirous of bearing witness to the truth, (granting most fully that the challenge took place, as it never did,) should have given their evidence in a form which I am about to show. Read the deposition again from the beginning.

THE DEPOSITION.

"Depose that they were present before the arbitrator Tisias—"

We do depose; for we were present. Read.

THE DEPOSITION.

"When Phormio challenged Apollodorus—"

This also they might correctly have stated in evidence, if he really gave the challenge.

THE DEPOSITION.

"If he denied that the document was a copy of the will of Pasion."

Stop there. Surely no man would have gone on to give this testimony, unless he had been present when my father published the will. He would have said immediately—"how do we know if there is any will of Pasion?"—and would have required Phormio to shape the clause in this way, (taking the form as in the beginning of the challenge)—"if I denied the document to be a copy of the will which Phormio said that Pasion had left"—not "of the will of Pasion." For this was to give evidence of a will, which was their intention; the other, that Phormio said there was a will: and I need hardly tell you, there is a vast difference between a thing being true, and Phormio's saying that it is.

That you may see how many important objects they had in view in the concoction of the will, I entreat your attention for a short time. The first object, men of Athens, was, that Phormio should not be punished for having corrupted her, whom it is not honourable for me to mention, but whom you know without my mentioning: the next, that he might get hold of all my father's property that was in my mother's keeping: and, in addition to this, he sought to become master of everything which belonged to us. Of the truth of this you will be convinced by hearing the will itself read: for you will find, it is not like the will of a father making provision for his sons, but like that of a slave who has dishonoured his master, and is thinking how to escape punishment. Read then the will itself, of which these witnesses before the action have given evidence; and you, men of Athens, mark what I shall have to say.

THE WILL.

"This is the will of Pasion of Acharnæ. I give my wife Archippe in marriage to Phormio, and I give to Archippe for

her dowry the talent charged on land in Peparethus,[1] the talent charged on land in Attica, a lodging house of the value of a hundred minas, and also the female slaves and jewellery and other things which she has in her custody in my dwelling house. All these things I bequeath to Archippe."

You have heard, men of Athens, the large amount of this dowry—a talent charged on land in Peparethus, a talent on land in Attica, a lodging house of the value of a hundred minas, female slaves and jewellery, and other things which she has in her custody—I give it her all, says he—precluding us by this clause from even searching for any of the property that was left.

Now let me show you the lease upon which Phormio had taken the bank from my father: for from this, though it is concocted, you will see that the will is an entire fabrication. I will show you the lease, the very one which Phormio produced, to which a clause is appended, stating that my father owed eleven talents upon the deposits to Phormio. The design of it, I apprehend, was this. The effects in the dwelling house, as being my mother's dowry, he appropriated to himself by means of the will, as you have just heard. The money in the bank, which all persons knew of, and which could not be concealed, he secured to himself by declaring my father to be indebted to him, so that, whatever was traced to his possession, he might say he had received in payment. You perhaps have imagined, because he solecizes in his speech, that he is a barbarian and a contemptible fellow. He is indeed a barbarian in hating those whom he was bound to honour; but, for villany and rascality, he yields to no man.

Now take the lease, which they put in like the will by means of a challenge. Read it.

LEASE OF THE BANK.

"Pasion has let the bank to Phormio upon the terms following, that is to say, that Phormio shall pay to the sons of Pasion a yearly rent for the bank of two talents and forty

[1] I agree with Pabst that sums in gross, and not annual rents, are hereby bequeathed. The article seems to indicate particular sums secured by mortgage; and very likely they formed the marriage portion received by Pasion with his wife.

minas, besides defraying the daily charges; and it shall not be lawful for Phormio to carry on business as a banker independently, without having first obtained the consent of the sons of Pasion. It is hereby declared that Pasion owes eleven talents to the bank upon the deposits."

This is the agreement, men of the jury, which Phormio produced, and upon which he pretended to have taken a lease of the bank. You learn from its recital, that Phormio was to pay, besides the daily charges, a yearly rent of two talents and forty minas, and that he was not to be at liberty to carry on banking business without having obtained our consent. And the clause at the end says—"Pasion owes eleven talents on the deposits." Is there any man, I ask, who would have submitted to have paid so large a rent for the counter and the room and the ledger? Is there any one who, after the bank had incurred so large a debt, would have entrusted what remained to the person who occasioned that liability? For, if there was such a large deficit, it was created during Phormio's management. You are all aware that, when my father carried on the banking business, Phormio was his manager and sat at the counter: so that he ought rather to be in the mill,[1] than to get the rest of the property into his hands. But I pass by this, and a good deal else which I might say about the eleven talents, to show that my father never owed them, and that Phormio has fraudulently appropriated that sum. Let me recall to your recollection the purpose for which I read the lease, namely, to prove the falsehood of the will. There is a proviso, that it shall not be lawful for Phormio to carry on business as a banker without having first obtained our consent. This clause decidedly proves the will to be a forgery. For let me ask—would a man who had taken precautions to secure to us his children, and not to Phormio, the profits which Phormio might make by banking, and therefore had expressly forbidden him to

[1] A punishment inflicted upon slaves. So in Samson Agonistes:

Dost thou already single me? I thought
Gyves and the mill had tamed thee.
* * * * *
To put out both thine eyes, and fetter'd send thee
Into the common prison, there to grind
Among the slaves and asses thy comrades,
As good for nothing else.

bank on his own account, for fear of his separating his interests from ours—would the same man have provided that his own earnings, which he was leaving in his house, should come into Phormio's possession? He grudged him the trade profits, of which it was no disgrace to allow him a portion; yet he gave him his wife, which was a most disgraceful bequest! He had obtained the gift of citizenship from you; yet he gave his wife like a slave giving to a master, not like a master giving to a slave, (which was the case, if he gave her at all); and he gave with her such a marriage portion as no man in the city was ever known to give! Why, Phormio might have been content with the hand of his mistress; this was honour enough for him, without anything more: and as to my father, if he had even received as much money as these people say he gave for doing such an act, he could not have done it with propriety. However, that which the facts, the dates, the probabilities of the case, show to be false, Stephanus the defendant has not scrupled to bear witness to.

Then he goes about saying, that Nicocles has given evidence that he acted as guardian under the will, and Pasicles has given evidence that he was in wardship under the will. It seems to me, these very facts establish that neither those witnesses nor these have given evidence of the truth. For Nicocles, who deposes that he acted as guardian under the will, must of course know under what will he acted; and Pasicles, who deposes that he was in wardship under the will, must of course know under what will that was. For what purpose then, Stephanus, did you and your co-deponents tack the proof of a will to a challenge, instead of leaving that proof to Nicocles and Pasicles? If Nicocles and Pasicles say that they do not know the contents of the will, how is it possible for you to know them, who were never in any way concerned in the matter? But how comes it that some of these witnesses have spoken to one thing and some to another? It is as I have already stated; they divided the fraud: there was no danger (the witnesses thought) in deposing, one, that he had acted as guardian under a will, another, that he had been in wardship under a will, while each of them omitted to state what had been written in the will by Phormio: there was no danger in a third deposing, that his father had left him a document entitled "a will," or

anything of that sort. But to testify to the existence of a will, involving plunder to such an enormous amount, corruption of a lady, wedlock between mistress and slave, circumstances of the foulest scandal and disgrace—this was reserved for Stephanus and his accomplices, dressing their evidence in the guise of a challenge; and from them I ought to obtain redress for the whole of this wicked fraud.

That the falsehood of the evidence given by Stephanus may be apparent to you, men of Athens, not only from my charges and my proofs, but also from the acts of the person who produced him as a witness, I will inform you what that person has done. As I said in the outset of my speech, I will show that they are their own accusers. In the cause in which this testimony was given, Phormio pleaded a special plea, alleging that my action was not maintainable because I had released him from all claims. I myself know this to be false, and I will prove its falsehood when my case comes on against the witnesses to the release. Stephanus however is not at liberty to say it is false. Should you then believe the story of the release, it would be the strongest possible proof that the defendant is a false witness, and has given evidence of a fabricated will. For where is the man so senseless, as to give a release in the presence of witnesses, in order to make his discharge valid and binding, and yet to allow the articles of agreement and the will and other documents, in respect of which he gave the release, to remain sealed and be kept as evidence against himself? The special plea therefore contradicts all the testimony, and the lease which I read you just now contradicts this will: no part of their story appears to be either rational, or straightforward, or consistent with itself; all of it is shown to be fictitious and fraudulent, just what you might expect from this man's character.

That the evidence in the deposition is true, neither Stephanus himself, I take it, nor any one else on his behalf, will be able to show. I am told, however, that he is prepared with an excuse of this kind; that he is responsible for a challenge, not for a deposition; and that he ought not to be called to account for everything contained in it, but for two things only—whether Phormio gave me this challenge or not, and whether I accepted it: to these things, he will say, his evidence extended, and to nothing more; the other matters

were the subjects of Phormio's challenge, but, whether they are true or otherwise, is a question that he (the witness) has nothing to do with. In answer to this impudent argument it is better that I should say a few words to you beforehand, that you may not in ignorance be misled. In the first place, when he attempts to argue, that he is not responsible for the whole contents of the deposition, remember, that it is on this account the law requires people to give evidence in writing, that they may not be at liberty either to strike out any part of what has been written or to add anything to it. What he now denies having deposed to, he should have required to be erased at the time; being in the deposition, he cannot impudently repudiate it. And again, consider this—whether you would allow me in your presence to take the writing and insert anything. Of course you would not. No more then can you allow the defendant to strike out any of the contents. For who would ever be convicted of false testimony, if he might depose to what he pleased and be responsible for what he pleased? That is not the rule of law, nor ought you to listen to such a thing. The plain and honest course is this —What is written down? what have you deposed to? Show that that is true. For example—you have said in your answer to the plaint—"I gave true testimony, in testifying that which is contained in the record"—not "this or that in the record." To show that it is as I say, take the plea itself, and read it.[1]

THE PLEA.[1]

Apollodorus son of Pasion of Acharnæ sues Stephanus son of Menecles of Acharnæ for false testimony: damages a talent: Stephanus gave false testimony against me in testifying that which is contained in the record.

Stephanus son of Menecles of Acharnæ says: I gave true testimony, in testifying that which is contained in the record.

This is what the defendant himself has pleaded. You must keep it in your minds. The deceitful language that he

[1] Such is the heading in the original—ἀντιγραφή. The two pleadings together, the plaint on the left side, the plea on the right, form (as we should say) the issue on the record. The deposition complained of was annexed.

will presently address to you is not to be regarded as of equal weight with the laws and the terms of his own plea.

I am informed that they mean to speak on the subject of my original action, and to denounce it as vexatious. I have already mentioned and explained to you, how Phormio concocted the lease in order to get possession of the banking stock; and I should not be able to speak of the other matters and at the same time to establish my charge of false testimony against these witnesses; for my measure of water is not sufficient. That you however could not fairly listen to them on these matters, will be apparent to you, if you reflect, that there is no difficulty in speaking now on subjects on which no charge is made, and there was no difficulty before in obtaining an acquittal by reading false depositions. But no man will say that either of these courses is right. That is right and fair, which I am about to propose: attend and see. I say—don't let them look now for the proofs, which should have established my original case, and of which they deprived me; but let them show the testimony, by which they deprived me of them, to be true. If, when I bring my cause to trial, they require me to confute their testimony, and when I proceed against them for false testimony, they tell me to discuss my original claims, what they contend for will neither be just nor for your interest. You are sworn to decide, not questions upon which the defendant asks for your judgment, but those only which are raised by the action. The cause of action must be indicated by the plaint; and this in my case is a suit against this man for false testimony. Don't let him travel out of the record to discuss matters for which I am not suing him. If he is impudent enough to attempt this, don't suffer it to be done.

I expect that, having no argument to offer on any point, he will resort to this defence, that it is absurd for me, who have been beaten on a special plea, to sue the witnesses who gave evidence of a will; and he will say that the jurors on that trial, in finding a verdict for Phormio, relied rather on the witnesses to the release than on the witnesses to the will. I think, men of Athens, you are all aware, that it is your practice to look at the facts of the case as much as at the pleas which are pleaded about them. Now these witnesses, by giving false evidence upon the facts of the case, weakened

my arguments on the special plea. And besides this, it would be absurd, when they have all given false evidence, to demonstrate who did the greatest damage, instead of each proving the truth of his own evidence. The witness is not to get off by showing that another person has done more dreadful things than himself, but by proving his own evidence to be true.

But that for which more than anything else the defendant Stephanus deserves to die, men of Athens, I am about to tell you, and I beg your attention. It is a shocking thing to bear false witness against any one; but to bear false witness against your own kindred is a thing far more shocking, and more deserving of indignation: a man capable of such a thing violates not merely the written laws, but the ties of natural affection. I shall show that Stephanus has been guilty of this. For his mother is sister to my wife's father, so that my wife is his first cousin, and his children and mine are second cousins. Do you think the defendant, if he saw his female relations driven by want to any mean employment, would portion them off and give them in marriage, as many have done ere now—he that has borne false witness to prevent their getting what belongs to them, and esteemed Phormio's wealth as paramount to the bonds of relationship? To prove the truth of these statements, please to take the deposition of Dinias and read it, and call Dinias.

THE DEPOSITION.

"Dinias, son of Theomnestus, of Athmonia, deposes, that he gave his daughter to Apollodorus to live in wedlock with him according to law, and that he was never present when Apollodorus released Phormio from all claims, nor ever heard that he had done so."

Very like the defendant is Dinias, is he not, men of the jury?[1]—a person who, on account of his relationship, will

[1] C'est à dire, pour preuve qu'un parent ne doit pas déposer contre son parent, même suivant la vérité, on va lire la deposition de Dinias, qui n'a point voulu attester contre Etienne ce qu'il savoit étre veritable."—Auger.

"Scilicet Dinias, ut Stephano parcat, de solâ *τῇ ἀφέσει* loquitur, tacet *τὰ περὶ τὴν διαθήκην*."—Schäfer.

Is it not rather this—that Dinias refuses to give the evidence which the plaintiff reads; which he could hardly depose to, if he was a party

not give evidence even of the truth against the defendant for his daughter and his daughter's children and me, his son-in-law! Stephanus has no such feeling; he did not scruple to give false evidence against us; even his respect for his mother did not restrain him from bringing want and beggary upon his maternal relatives.

A most foul trick was played me while the cause was going on, by which I was quite thunderstruck, men of the jury. I will tell you what it was; for it will give you a still clearer insight into the baseness of this man's character, and it will afford me some relief to unburden my griefs to you. The deposition which most strongly established my case, and which I thought was safe, I found gone from the box. At the time I was so overwhelmed by the misfortune, I could only guess that the magistrate had played me false and broken open the box. Now however, from what I have since heard, I find that the defendant Stephanus was bold enough to steal it before the arbitrators, when I had got up to swear a witness. To prove the truth of this statement, I will first call as witnesses some of these men's partisans who saw the thing done: for I scarcely think they will like to take an oath of disclaimer. If they should be impudent enough to do so, he shall read you a challenge, by which you will catch them in open perjury, and will know all the same that the defendant stole the deposition. A person who could commit a theft as tool of another—what do you think he would do for himself, men of Athens? Read the deposition, and then this challenge.

THE DEPOSITION.

"Depose that they are friends and acquaintances of Phormio, and were present before the arbitrator Tisias, when the award was pronounced in the cause between Apollodorus and Phormio, and they know of Stephanus having stolen the deposition, which Apollodorus charges him with having stolen."

Either depose, or take the oath of disclaimer.

to the award, which carried into effect the compromise between Apollodorus and Phormio. See the speech for Phormio, page 949, (original) Vol. IV. page 208, in my translation. It is true that this deposition contains no direct evidence against Stephanus, who spoke not to the release but to the will. Yet perhaps the orator may have thought it answered his purpose to create confusion.

[*The oath of disclaimer*].

It was pretty certain, men of the jury, that they would do this—that they would promptly disclaim. To convict them at once of perjury, please to take this deposition and challenge. Read.

THE DEPOSITION. THE CHALLENGE.

"Depose that they were present, when Apollodorus challenged Stephanus to give up his footboy to be examined by torture concerning the theft of the document, and Apollodorus was ready to draw up the conditions on which the torture should be administered; and, upon Apollodorus giving this challenge, Stephanus did not choose to deliver up the slave, but replied to Apollodorus, that he might go to law if he pleased, if he thought he had sustained any wrong from him."

Who upon such a charge, men of the jury, if he was confident of his innocence, would not have accepted the torture? Then, by declining the torture, he is convicted of the theft. Do you think a man would be ashamed of the reputation of a false witness, who did not shrink from becoming a thief; or that he would scruple to give false evidence at the request of another, who volunteered to commit a fraud which no one asked?

Much as he deserves, men of Athens, to be brought to justice for all these things, he merits punishment at your hands still more for the rest of his conduct. Look at the life which he has led, and judge. While Aristolochus, the banker, enjoyed prosperity, the defendant used to walk with him step by step, cringing and fawning upon him, as is known to many of you who are sitting here. After Aristolochus was ruined and lost his property, principally from having been plundered by Stephanus and persons of that sort, and when his son was in great distress, Stephanus never assisted or stood by him, but he has received assistance from Apolexis, Solon, any one rather than Stephanus. Again, the defendant has paid court to Phormio, and has become intimate with him, selecting him from all the Athenians; and he went out as commissioner for him to Byzantium, when the Byzantines detained Phormio's vessels, and pleaded his cause against the Chalcedonians, and he has

given false evidence against me in this flagrant manner. A man who flatters the wealthy, and betrays them if they fall into adversity, who, out of all the good and worthy citizens of Athens, does not associate with one upon equal terms, but willingly cringes to people like Phormio—who does not mind whether he injures any of his relations, or whether he falls into bad repute for his conduct—who, in short, cares for nothing in the world but how to enrich himself—ought you not to detest such a man as the common enemy of all human nature? I should think so.

This most disgraceful line of conduct he has adopted, men of Athens, with a view to escape the public service and conceal his property; that he may make secret profits by means of the bank, and avoid incurring choragic and trierarchal expenses, or perform any other civic duty. And he has accomplished this object: I will give you a proof. Although he has an estate so large, that he gave his daughter a marriage portion of a hundred minas, he has never been seen by you to perform any official service, not the smallest. How much more honourable it would have been, to have shown public spirit and zeal in the performance of his duties to the state, than to have exhibited himself as a flatterer and a false witness! Unfortunately, the defendant is a person who will do anything to get money. Your resentment, men of Athens, should rather fall upon those who are rogues in opulence, than those who are rogues in poverty. The latter have some excuse from the pressure of necessity, in the eyes of those who take a humane view of the matter: but rogues who have plenty of means, like the defendant, can allege no reasonable excuse for it, but it will appear that their conduct proceeds from a covetous and grasping and overbearing spirit, and from a desire to make their own leagues more powerful than the laws. All these things, men of Athens, are disadvantageous to you: it is for your interest, that the weak should be able to obtain redress for his wrong from the wealthy; and he will be able, if you punish men (who for all their riches) are thus flagrantly dishonest.

The airs which Stephanus affects, when he walks in a sulky manner by the walls, must not be taken for proofs of his modesty, but rather of his misanthropy. It appears to me, that a man who has had no misfortune, who lacks none

of the necessaries of life, and yet habitually assumes this demeanour, has made a calculation in his own mind; he has observed that those who walk in a simple and natural way, and who wear a cheerful countenance, are accosted freely by their neighbours, and one is not afraid to ask favours of them or make demands; but your men of grave airs and sulky looks one shrinks even from approaching. Such an exterior then is but a mask of the real disposition, and in your case it denotes the bitterness and brutality of your nature. Here is the proof. Among all the multitude of Athenian citizens, while you have enjoyed a fortune so much beyond your deserts, to whose service have you ever contributed? to whom have you ever lent any aid, or done any kindness? You cannot mention a single one. You have been lending money at interest, and regarding the misfortunes and necessities of other men as your own good fortune; you have ejected your uncle Nicias from his paternal house; you have deprived your own mother-in-law of her means of livelihood; and you have made the son of Archidemus, as far as it depended on you, a homeless outcast. No one ever levied a judgment upon a defaulter so rigorously as you have exacted the interest from your debtors. You see, men of the jury, how savage and brutal he is upon all occasions; and now that you have caught him in the commission of a palpable offence, will you not punish him? Such forbearance would indeed be shameful, and a failure of justice.

You ought to be no less indignant, men of Athens, at the conduct of Phormio, who produced this man as a witness, when you see his impudence and ingratitude. You all know, I take it, that if, when he was for sale, a cook or an artisan in any other trade had happened to purchase him, he would have learned his master's business, and been very far removed from the prosperity which he now enjoys. But as my father, who was a banker, became his master, and taught him reading and writing, and instructed him in his trade, and put a large property under his management, he has become wealthy; and he owes all his present wealth to the good luck of having come into our family. It is shocking then—O heaven and earth—it is worse than shocking, that he should suffer those who made him a Greek instead of a barbarian, a friend instead of a slave, and who were the

authors of all his prosperity, to languish in the extremity of poverty, while he is rich and flourishing; and that he should have reached such a pitch of impudence, that he cannot bring his mind to share with us the good fortune which we shared with him. He has not scrupled to marry his mistress, to live in wedlock with her who poured the sweetmeats[1] over him when he was bought for a slave: he has not scrupled to frame a clause giving himself a marriage portion of five talents, besides the large property of which he has become master by my mother having it in her custody—for why do you think he inserted that clause in the will—"and the other things which she has in my dwelling-house I bequeath to Archippe?" While he has thus provided for himself, he suffers my daughters to grow old maids in their father's house, for want of a dowry. If Phormio had been poor, and we had been wealthy, and anything had happened to me, as in the ordinary course of nature is to be expected, the sons of Phormio would have claimed my daughters in marriage, the sons of a slave, that is, would have claimed the daughters of the master; for they are their maternal uncles, through Phormio's having married my mother. As we are in bad circumstances, however, he will not help to portion them off, but talks about the amount of my property, and reckons it up. This really is the strangest thing. To this day he has never chosen to account to me for the money which he has defrauded me of, but pleads that my actions are not maintainable; while he charges against me what I have received on the division of my inheritance. In other cases you see slaves called to account by their masters: here you have the reverse, a slave calling his master to account, and thinking thereby to show him up as a rascal and a spendthrift. For my own part, men of Athens, I judge by my external appearance, and my habit of fast walking and loud talking, that I am not one of those whom nature has favoured: for, that I should annoy certain people without benefiting myself, is a disadvantage to me in many respects: at the same time, as I am moderate in all my personal expenses, it would appear that I live a much more discreet life than Phormio and others who resemble him. To the state, indeed, and in what

[1] As to this custom upon the entrance of a newly purchased slave into the house, see Becker's Charicles, Translation, page 368.

concerns you my fellow-citizens, I do everything in the handsomest way that I can, as you are aware: for I am not ignorant that, although for you who are citizens by birth it is sufficient to perform the public services as the laws require, we who are created citizens should perform them in such a manner as to display our gratitude to you. Do not then reproach me, Phormio, for what rather deserves commendation: but show which of our fellow-citizens I have hired, as you have, for prostitution. Whom have I deprived of the political franchise, which was conferred upon myself, and of the liberty of public speech; as you have deprived the person whom you dishonoured? Whose wife have I corrupted, as you have? Among others, men of the jury, this execrable fellow seduced the woman, to whom he built the monument near to that of his mistress at an expense of more than two talents; and he had not the sense to perceive that a building of that sort would be a monument not of her tomb, but of the injury which she had done to her husband through him. You who are guilty of such acts—you who have given such public proofs of your outrageous conduct—do you dare to scrutinize the life of another man? You are modest in the daytime, but in the night you do things which are punishable with death. He is a knave and a rogue, men of Athens, and such he has been ever since he left the temple of Castor.[1] Here is the proof. If he had been honest, he would simply have managed his master's affairs and remained poor. But, having had money under his control to so large an amount, that he could steal from it all that he now possesses without discovery, he regards his present fortune not as a debt which he owes, but as a patrimony which he inherited. And yet—by the gods!—had I taken you off to prison as a thief caught in the act, with your present property clapped upon your back—supposing this to have been possible—and had I then required you, in case you denied having stolen the money, to name the person from whom you got it, to whom should you have referred as the donor? Your father did not give it you, nor did you find it, nor had you obtained it from any other source when you came into our family; for you were a barbarian when we bought you. A pretty thing that you, who ought to

[1] Near which there was a slave market.

have been publicly executed for your crimes, after having saved your life, after having got the freedom of the city with our money, after being permitted to beget brothers to your own masters, should plead a special plea in two of my actions of debt! And again, that you should speak abusively of me, and inquire into my father's origin! Who would not have been indignant at such usage, men of Athens? I take it that, if I am bound to think less of myself than of all the rest of you, I have at all events a right to think more of myself than of Phormio; and if he is not bound to humble himself before any one else, he should at least humble himself to me; for, granting that we are no better than you would make us out to be, you, Phormio, were our servant.

Perhaps one of them will say, that Pasicles, though he is my brother, makes none of the same complaints against him. I will meet this objection, men of Athens, and with respect to Pasicles—(though I must first beg and entreat you to pardon me, if I am no longer able to contain myself under the outrages which I have received from my own slave)—I will not shrink from declaring, what till now I pretended not to hear from the mouths of others. I consider Pasicles to be my brother by the mother's side, but I am not so sure that he is my brother by the father's side: I rather fear that the wrong which Phormio has done us began with Pasicles. For when he pleads the cause of a servant against his brother's honour, and when he is so senseless as to treat with respect those who ought to treat him with respect, what is the suspicion which naturally arises? Don't let us hear any more of Pasicles then: let him be called your son instead of your master, and my adversary (for such he chooses to be) instead of my brother.

I bid adieu to this man; I have recourse to those whom my father left me as my supporters and friends—I mean, to you, men of the jury. And I pray and beseech and implore you—do not leave me and my daughters to become through poverty a laughing-stock to my own slave and his flatterers. My father presented you with a thousand shields, and made himself serviceable to you in many ways, and five times performed the duty of trierarch, voluntarily equipping his galleys and manning them at his own cost. And I remind you of these things, not because I regard you as under obli-

gation to me, (for it is I who am under obligation to you,) but that I may not be treated, without your knowing it, in a manner unbefitting my deserts; which would not be honourable to you any more than to myself.

I could say a great deal about the insults which I have undergone, but I see that the water in my glass is not sufficient. I will tell you what is the best way to comprehend the magnitude of my wrongs. You must each of you consider what servant you left at home, and then imagine that you have suffered from him the same treatment which I have suffered from this man. No matter if his name is Syrus or Manes or some other, and this man's name Phormio. The thing is the same—they are slaves, and this man was a slave; you are masters, and I was a master. Consider then, that I am now entitled to the satisfaction which each of you would look for; and, for the sake of the laws and the oaths which you have taken as jurors, punish the man who has deprived me of satisfaction by giving false testimony; punish him, and make him an example to others, remembering all that you have heard from me, and keeping it in mind, if they attempt to mislead you, and meeting him at every point; and if they say that they have not borne witness to all the facts, ask them these questions—"what is written in the deposition? why did you not strike it out at the time? what is the plea left with the archons?" If they say that one person has deposed, that he was under guardianship according to a will—another, that he acted as guardian under it—a third, that he has it in his custody—ask them—"what will? what are its contents?"—for none of the other witnesses has deposed to what these have. Should they set up a whining, remember that the injured party is more deserving of compassion than the guilty. If you take this course, you will at the same time give me redress, and restrain the base adulation of these people, and satisfy your own consciences by a righteous verdict.

THE ORATION AGAINST STEPHANUS—II.

I PRETTY well suspected, men of the jury, that my opponent Stephanus would find something to say in defence of his testimony; and that he would endeavour to mislead and deceive you, by saying, that he has not borne witness to everything mentioned in the deposition. He is a crafty fellow, and Phormio has many persons to compose speeches for him and advise him. And besides, it is natural that men who determine to give false testimony should from the first prepare the means of supporting it. However, I pray you to bear this in mind—for you must have remarked it as well as myself—that in the whole course of his address to you he called no witnesses to prove, either that he was himself present when my father made this will, so as to know that this is a copy of my father's will, or that he saw the document opened which they declare to have been the testamentary paper left by my father. When however Stephanus has given evidence, that the copy set forth in the deposition is a copy of Pasion's will, and yet that he cannot prove either that my father made the will in question, or that he himself was present and saw my father making it, can there be a doubt that he is manifestly convicted of false testimony?

If he contends that it is a challenge, and not a deposition, he says what is not true. All evidence which parties produce to the court when they challenge each other is produced through the medium of depositions. You would not know whether their respective statements were true or false, unless witnesses were called in support of them. When witnesses are called, you rely on them as being responsible, and so from the statements and the evidence you arrive at such verdict as you think just. I will clearly prove to you that the deposition in question is not a challenge, and I will show you how they ought to have deposed, if the challenge was ever given, which it was not—"They depose that they were present before the arbitrator Tisias, when Phormio

challenged Apollodorus to open the document which Amphias, the brother-in-law of Cephisophon, produced, and Apollodorus declined to open it."—If they had framed the deposition in this way, their evidence might have been credible. But to depose, that the writing which Phormio produced was a copy of Pasion's will, without their having been present when Pasion made his will, and without their knowing whether he made one at all—don't you think it a consummate piece of impudence?

Should he say, that he believed this to be true because Phormio said it was, remember that the same person who believes this on Phormio's word is likely to bear witness to it at his request. The laws however say something very different. They require that a man shall bear witness to what he knows, and to what he was present at and saw done, and that his testimony shall be committed to writing, so that there may be no means of subtracting anything from or adding anything to it. Hearsay evidence they do not allow from a living person, but only from a deceased. Those who are ill or out of the country may give evidence in writing without attendance; and, in case of such evidence being impeached, the absent witness and the witness who verifies his deposition are both to be made defendants in the same suit, so that, if the absent witness acknowledges his evidence, he may be responsible for the false testimony, and, if he does not acknowledge it, those who verified his deposition may be responsible. Now my opponent Stephanus, without either knowing that my father left a will, or having ever been present when my father made one, but taking Phormio's word for it, has given hearsay evidence which is false, and in a manner contrary to law.

To prove the truth of what I say, he shall read you the law itself.

THE LAW.

"It shall be lawful to depose to hearsay from a deceased person, and to certify the deposition of a person who is out of the country or ill without such person's attending."

I will show you also, that he has given evidence contrary to another law; and you will see, that Phormio, having no escape from his grave delinquencies, has made a pretence of the challenge, and has really given evidence for himself

under the cover of these men's testimony, by means of which the jury were deceived, supposing they were witnesses to the truth, and I was robbed of the property which my father had left me and the redress which I ought to have had for my wrongs. Let me tell you then—the laws do not allow a man to be his own witness either in actions or upon indictments or audits. Phormio however has been his own witness, when these men say that they have given this testimony from what he told them. That you may be perfectly convinced, you shall hear the law itself.

THE LAW.

"The parties to a cause shall be compelled to answer questions to each other, but they shall not give testimony."

Now consider another law which I am about to read, which declares that a suit for false testimony shall be maintainable on this ground also, namely, for giving testimony contrary to law.

THE LAW.

"A suit for false testimony shall lie against a witness on this ground simply, that he has given testimony contrary to law; and likewise against the party who produced him."

You may see further from the tablet on which the deposition is written, that he has given false evidence. For it is whitened and was prepared at home. But it is only witnesses to facts, whose depositions ought to be prepared at home: those who witness challenges, who are only accidentally present, should have their depositions written on wax, so that, if you want to add or erase anything, it may be easily done.[1]

[1] In note 12 to Scene IX. of the Charicles, where this passage is referred to, we read—

"The word *μάλθη* is explained by Harpocration, Photius, Hesychius, and Suidas, to be *μεμαλαγμένος κηρὸς*, and we may readily suppose that the wax was mixed with something to make it less brittle. Suidas also mentions *σκληρόκηροι δέλτοι*, which would better preserve the writing on them; *μόλις μὲν γράφονται, διατηροῦσι δὲ τὰ γραφέντα.* These wax tablets were used only for letters, and matters of no permanent moment."

The whole of that Scene (on the subject of Wills) should be perused. And the reader may further consult Articles *Album, Atramentum, Liber, Martyria,* in the Archæological Dictionary.

I subjoin Pabst's translation:

"Schon aus der Schrift, worin das Zeugniss aufgezeichnet steht,

All these things clearly prove that Stephanus has given false evidence, and given it contrary to law. But I will show you something more—I will show that my father neither made a will nor could make one lawfully. If you were asked what laws we are bound as citizens to observe, you would reply of course, the established laws. However, the laws positively declare, that even a law shall not be proposed in relation to a particular man, unless it applies also to the whole Athenian people. This law then commands us to live as citizens according to the same laws, not according to different laws. But my father died in the archonship of Dysnicetus, and Phormio became an Athenian citizen in the archonship of Nicophemus, ten years after my father's death. How could my father, without knowing that Phormio would be an Athenian citizen, have given him his own wife in marriage, and by such act have insulted me, shown his contempt of the honour which he had received from you, and disregarded the laws? And which would have been the wiser course for him to adopt—to do this in his lifetime, if he desired it—or to leave at his death a will which he had no right to make? You shall hear the laws themselves, and you will see from them that Pasion had no right to make such a will. Read the law.

THE LAW.

"Any citizen (with the exception of such as had been adopted when Solon became archon, so as neither to renounce nor to claim his inheritance)[1] shall be at liberty to dispose

kann erkannt werden, dass er hierin falsch gezeugt habe, weil diese auf weissen Papier geschrieben und von Hause zu diesem Zwecke mitgebracht war. Es dürfen zwar Diejenigen, welche vollzogene Handlungen bezeugen, die Zeugnisse fertig von Hause mitbringen und auf diese Weise zeugen: Diejenigen aber, welche geschehene Aufforderungen und Vorladungen bezeugen sollen, wenn sie nur durch einen Vorfall Augenzeugen derselben geworden sind, auf Wachstafeln das Zeugniss schreiben, damit, wenn man Etwas dazuschreiben oder wegstreichen will, Diess leicht geschehen könne."

[1] These obscure words are differently interpreted by Reiske, whom Pabst follows:—

"So dass sie weder Jemanden ausschliessen, noch gesetzliche Ansprüche auf eine Heirath machen könnten."

It would seem that the exception in the law applies to cases of family adoption, and the orator interprets it (wrongly, I should think,) as applying to the case of created citizens. The ambiguous word *ποιεῖσθαι* favours his misconstruction.

of his own property by will as he pleases, if he has no male children lawfully born, unless his mind is impaired by lunacy or dotage, or by drugs or disease, or unless he is under the influence of a woman or some illegal motive, or under constraint or durance."

You have heard the law, which does not allow any man to make a will, if he has lawfully born sons. These witnesses say that my father made the will in question, but they cannot show that they were present when he executed it. It is right you should observe also, that it is to those who were not adopted, but lawfully born citizens, that the law gives the right, in case of their being childless, to dispose of their property by will. My father however had been adopted as a citizen by the people, so that even on this account it was not lawful for him to make a will, especially concerning his wife, of whom he was not even the lawful guardian; and besides that, he had children. Consider again, that, even if a man is childless, he is not competent to dispose of his property, unless he is of sound mind. If he is labouring under the effects of disease or drugs, or under a woman's influence, or in a state of dotage or lunacy, or under any constraint, the laws declare him to be incompetent. See now if the will, which these witnesses say my father made, appears to you to be the act of a reasonable man. Take the lease for an example, and nothing else. Is it consistent, think you, with the conduct of a man, who refused permission to Phormio to carry on business in connexion with us, that he should give him his wife in marriage, and suffer him to become partner with himself in paternity? Don't be surprised that, while they were arranging everything else in the lease very nicely, this one thing escaped their observation. Perhaps they never thought of anything but this, how to rob me of my money and to set down my father as debtor to the bank; and then they never dreamt that I should be clever enough to examine these things minutely.

Look now at the laws, to see from whom they require betrothals to be obtained; that you may learn from them also, that the defendant Stephanus has been a false witness to a fabricated will. Read.

THE LAW.

"The children of that woman shall be deemed legitimate,

who has been affianced for lawful wedlock either by her father, or by her brother by the father's side, or by her paternal grandfather. In case there be none of these relatives, if a woman be an heiress, her guardian shall take her to wife; if she be not an heiress, that man shall be her guardian, to whom she chooses to entrust herself."

You have heard what persons this law has made guardians of women. That my mother had none of these, my adversaries themselves have borne witness. For, if there had been any, they would have brought them forward. Or do you think they would have produced false witnesses and a fictitious will, and would not have had a brother or a father or a grandfather forthcoming, if it could have been done for money? As none of these relatives appears to have been in existence, it follows of course that my mother was an heiress. See then whom the laws appoint to be the guardians of an heiress. Read the law.

THE LAW.

"If a son is born of an heiress, two years after he has attained his puberty[1] he shall enter into possession of the estate, and he shall pay alimony to his mother."

The law then declares, that the sons, when they have arrived at manhood, shall be their mother's guardians, and shall provide alimony for their mother. It is shown that I was out on a campaign and commanding a ship in your service, when Phormio became my mother's husband. To prove that I was absent in command of a ship, and that my father had been dead some time, when Phormio married, and that I demanded the female slaves of him and required that they should be examined by torture upon this very point, namely, whether what I am now asserting is true, and that I gave him a formal challenge—to prove this, I say, please to take the deposition.

THE DEPOSITION.

"Depose that they were present when Apollodorus challenged Phormio, that is to say, when Apollodorus required Phormio to give up the female slaves to be examined by torture, if Phormio denied that he had seduced his mother

[1] When he has attained his eighteenth year, and become an Ephebus. (Becker's Charicles, Translation, page 238.)

before the time when Phormio declared that he had married her under the sanction of Pasion's will. And, on Apollodorus giving this challenge, Phormio refused to deliver up the female slaves."

In connexion with this read the law, which commands that there shall be an adjudication of all heiresses, whether alien or citizen; and that in the case of citizens the archon shall have the jurisdiction and superintendence; in the case of resident aliens, the polemarch; and it shall not be lawful for any one to obtain an inheritance or an heiress without adjudication by the court.

THE LAW.

"The archon shall appoint[1] days for the trial of claims to inheritances and heiresses every month in the year, except Scirophorion; and no person shall obtain an inheritance without an adjudication by the court."

He ought therefore, if he wished to proceed regularly, to have commenced his suit for the hand of the heiress, whether he founded his claim on a gift or on consanguinity: (if he claimed her as being of civic birth, his suit should have been to the archon, if as an alien, to the polemarch:) then, if he had any good ground for his claim, he might have convinced the persons who were drawn on the jury, and by their sentence and under the authority of the laws have obtained possession of her hand. This is what he ought to have done; not to have made laws for himself and proceeded according to his pleasure.

Now consider the following law, which gives validity to a will made by a father, though he has legitimate sons, if the sons die before they arrive at manhood.

THE LAW.

"Whatsoever will a father makes during the existence of legitimate sons, such will shall take effect, if the sons die within two years after the age of puberty."

As then the sons are alive, the will, which these men say my father left, is invalid, and Stephanus the defendant has borne false witness contrary to all the laws, in saying that the document in question is a copy of Pasion's will. How

[1] The magistrate is said *κληροῦν δίκην*, as the suitor *λαγχάνειν δίκην*. See Schömann, Att. Proc. p. 610.

do you know it was, Stephanus? Where did you see my father make the will? You are shown to have been guilty of foul practices with respect to the will, to have given false evidence yourself without scruple, to have stolen the depositions which were evidence of truth, to have imposed upon the jury, to have entered into a conspiracy to defeat justice. And by the laws of Athens an indictment lies for such conduct. Read me the law.

THE LAW.

"If any man shall enter into a conspiracy, or lend his aid to bribe the court of Heliæa or any of the courts of justice at Athens or the Council, by giving or receiving money for a corrupt purpose, or shall form an association for the putting down of the democracy, or being a public advocate shall receive money in any cause either of a public or private nature; an indictment shall lie for any such act before the Judges."

I should be glad to ask you, men of the jury, with reference to all these matters, according to what laws you are sworn to give your judgment—whether according to the laws of the commonwealth, or according to the laws which Phormio enacts for himself. I produce before you these laws of the commonwealth, and I prove to you that both these men have transgressed them—Phormio, by having wronged me in the beginning, and cheated me of the money which my father left me, and which he leased to Phormio together with the bank and the manufactory—Stephanus the defendant, by having given false evidence, and given it contrary to law.

It is right you should consider this also, men of the jury—that no one ever makes a copy of a will. People make copies of agreements, that they may know their contents and not violate them; but not of wills. It is on this account that people keep wills by them until their death; that no one may know how they dispose of their property. How then do you persons know, that what is contained in this document is a copy of Pasion's will?

I beseech and implore you all, men of the jury, to give me redress, and to punish these persons who have so recklessly given false testimony, as well for your own sakes as for mine, and for the sake of justice and the laws.

THE

ORATION AGAINST EUERGUS AND MNESIBULUS.

THE ARGUMENT.

THIS was a proceeding against the above-named defendants for having given false testimony upon a trial between the present plaintiff and Theophemus, in which, those parties having come to blows, and cross-actions having been brought, the question was who had committed the first assault, and the present defendants, who were brother and brother-in-law of Theophemus, deposed that Theophemus had tendered a female slave, who saw the affray, to be examined by torture, and the present plaintiff had declined to receive her. The plaintiff now calls witnesses to prove the falsehood of the evidence, and insists upon this among other proofs of its falsehood, that he had challenged Theophemus both in the other action of assault and in the present case to give up the female to the torture, and in both cases the offer had been refused.

The greater part of the plaintiff's speech is occupied in detailing the proceedings, out of which the quarrel arose; which are only so far relevant to the cause before us, as they serve to exhibit the animus of the parties to each other, and to throw light upon their motives and the degree of credit to which they might be entitled. The circumstances however are interesting in themselves, as being connected with the subject of the trierarchy and some points of Athenian law. I cannot do better than introduce them to the reader in the words of Böckh, taken from the fourth book of his Public Economy of Athens:—

"It happened that in Olymp. 105–4, there was no ship's furniture in the Athenian docks, the old ship's furniture not having been returned by the former trierarchs; and there were neither sails nor tackling to be bought in the Piræus in sufficient quantities; therefore by a decree of Chæredemus the payment of the money due was required, and the names of the debtors were delivered in by the overseers of the docks to the overseers of the Symmoriæ, and to the trierarchs whose ships were then about to sail. By the law of Periander it had been ordered, that the overseers of the Symmoriæ should receive the names of those who were indebted for the ship's furniture, and appoint certain persons to collect the money for the use of the trierarchs. The names of the debtors were engraven upon tablets, and all disputes arising between the parties were brought before the court of justice by the clearing officers, (whose duty it was to despatch

the fleet,) and by the overseers of the docks. Any person who had received ship's furniture was obliged to deliver it up according to the inventory either at Athens, or to his successor who was sent from the Symmoria. At this time any person's property could be confiscated, if he did not surrender the ship's furniture, or transfer his own by sale to his successor, who probably had power to distrain the property of the former."

Theophemus was one of the trierarchs who had not returned the ship's furniture which he had received from the public stores, and the plaintiff being both a trierarch and overseer of a Symmoria, or navy-board, it became his duty to call upon Theophemus to return this public property or pay the value of it. He did so, and, his demand not being complied with, he obtains first the verdict of a jury-court, and afterwards an order of council, authorising him to distrain upon the effects of Theophemus; he then proceeded to his house, and made a fresh demand, showing the order of council; not getting payment, he attempted to take a distress; Theophemus resisted, and they came to blows, Theophemus (as the plaintiff asserts) having struck the first blow. The plaintiff carries his complaint to the council, by whose direction he prefers articles of impeachment against Theophemus for having assaulted him in the performance of his duty. I have already commented on this proceeding in volume iii. page 363. The moderate fine of twenty-five drachms, imposed by the Council, is said by the plaintiff to have been consented to by him, upon the friends of Theophemus undertaking that he should refer the question of private damage to an arbitrator of the plaintiff's own choosing.

The plaintiff then went out with the fleet. Upon his return to Athens, as Theophemus declined to submit to the promised reference, the plaintiff commenced an action against him, which was met by a cross-action brought by Theophemus. Both were sent to an official arbitrator; but on the day appointed for the award Theophemus obtained an adjournment by means of an affidavit, and at the same time put in a special plea to the plaintiff's action. The effect of this was that the trial of the plaintiff's action was postponed, and that brought by Theophemus came on for trial first, the plaintiff not resorting to any dilatory plea. Theophemus obtained a verdict for 1,100 drachms, chiefly (as the plaintiff declares) by means of the false testimony of Euergus and Mnesibulus, which led the jury to believe that he had shrunk from the strong test of the truth. The loss of the verdict was attended with the penalty of 183 drachms 2 obols, being the *epobelia* or sixth part of the damages claimed in the plaintiff's action, and also 30 drachms for the court fees; making a total of 1,313 drachms, 2 obols.

Indignant at this result, the plaintiff instantly commenced proceedings against the false witnesses; the conviction of whom was indeed necessary to get the verdict in the cross-action set aside: not being able however to pay the above-mentioned sum to Theophemus by the appointed day, (for it seems that he had again been nominated as trierarch, and was called upon to defray certain expenses in that capacity,) he requested Theophemus to give him further time. This

was granted; but the granting of it was a trick on the part of Theophemus; for a short time afterwards, when the plaintiff had provided the money, and desired Theophemus to come with him and receive payment at the bank, Theophemus, making some excuse, proceeded that very day to the plaintiff's house and farm in the country, and distrained his goods and chattels, committing gross outrages, in which he was assisted by Euergus and others. The following day the plaintiff compelled Theophemus to receive payment of his damages and costs, and then demanded restitution of the distress; which Theophemus refused to give unless the plaintiff released both him and the witnesses from all causes of action which he had against them. Even after this payment, Euergus went again to the farm and took more goods in execution. Among other outrages that were committed was a violent assault by Theophemus and Euergus upon an old nurse of the plaintiff, who had endeavoured to prevent their taking a goblet, and who six days afterwards died of the ill-usage which she had received. These subsequent transactions are related by the plaintiff, to prove the motive of his opponents, and raise a prejudice against them in the minds of the jury.

The loose and feeble style of this oration, its garrulity and tiresome repetitions, have induced the best critics, as Clinton, Bekker, Böckh, and Schäfer, to pronounce it unworthy of Demosthenes, and attribute its authorship to one of his contemporaries. It is chiefly useful as giving information upon Attic usages.

With respect to the proceedings upon the cross-actions and the questions arising thereupon, the reader may consult Meier and Schömann, Attic Process, 651, 698; and Böckh, Public Economy of Athens, Transl. ii. 81, &c.

I ADMIRE the wisdom of the laws, men of the jury, which allow another chance after a trial by the proceeding for false testimony, so that, if any one has deceived the jurors by producing false witnesses or challenges which never were offered or depositions made contrary to law, he may be none the better for it, but the injured party may impeach the testimony in an action, and come into court and show that the witnesses have given false evidence upon the case, and thus at the same time obtain satisfaction from them and hold the party who put them forward liable for subornation. And on this account the penalty is made less to the plaintiff in the event of his not succeeding, in order that injured parties may not by the magnitude of the penalty be deterred from proceeding against witnesses for false testimony, while a heavy punishment is provided for the defendant, in the event of his being convicted and thought by you to have given false evidence. And justly, men of the jury. For it is because you have looked at the witnesses and put confidence in their

testimony, that you pronounce your verdict in accordance with it; and therefore, to prevent your being deceived, and to protect the suitors against wrong, the legislator made the witnesses responsible. I beseech you to give me a favourable hearing while I relate the facts from the beginning, that you may see by them how grievously I have been wronged, how the jurors were deceived, and what falsehoods these men deposed to.

I would much rather, if possible, have kept out of litigation entirely: if I am forced to come into court, it is more agreeable to appear against persons, who are not unknown to you. In the present case I shall have to give more time to the exposing of these men's character than to proving the falsehood of the deposition. That the evidence which they have deposed to is false, the defendants, as it seems to me, prove by their own conduct, and I have no occasion to produce any other witnesses than themselves: for when they might by their own act and deed have established the truth of their evidence, and thus have got rid of all trouble and avoided the risk of a trial, they declined to do so; they have not chosen to deliver up the female, whom (according to their evidence) Theophemus was ready and willing, and offered before the arbitrator, Pythodorus of Cedæ, to deliver up, but whom in fact I demanded for examination, as the witnesses who were then present testified in court, and as they will testify before you now. And Theophemus has taken no proceedings against them, and does not sue them for false testimony, we may presume because their testimony was true.

The defendants, indeed, almost admit in their deposition, that I was desirous of receiving the woman for examination, and that Theophemus asked me to postpone it, and that I was unwilling. However, it is of this woman, whom I desired to examine, and whom Theophemus offered to deliver up, as the defendants say, but whom no one ever saw personally present, either then before the arbitrator, or afterwards in court, or anywhere else when an offer was made to deliver her up—it was of her that these witnesses deposed, that Theophemus was willing to give her up and made an offer to do so; and the jurors thought that their deposition was true, and that I shrank from the proof which her evidence would have afforded on the question of assault, namely, which party

struck the first blow; for that is assault.[1] Is it not clear that these witnesses must have given false evidence, when even now they dare not deliver up the body of the woman, as they said Theophemus offered to do, and as they stated in evidence for him—they dare not take a course by which the truth of their testimony would receive actual confirmation, by which they (the witnesses) would get rid of the trial, upon Theophemus giving up the woman, and she would be put to the question respecting the assault, for which I sue Theophemus, (for he would only be giving her up now instead of then,) and the test of the truth would be obtained by those very means which Theophemus then lauded in order to deceive the jury? For he said on the trial for the assault, that the witnesses who were present at the transaction, and testified to what had taken place by a deposition in writing according to law, were false witnesses suborned by me, and that the woman who was present would speak the truth, not by deposing to a statement on paper, but by the strongest kind of evidence, given under examination by torture, and would thus show which of the parties struck the first blow. This statement, by which he deceived the jury, (for he made the assertion boldly and called witnesses to prove it,) is now shown to be false: for he dares not deliver up the person of the woman, which the witnesses have said he was willing to deliver up, but he rather chooses that his brother and his brother-in-law shall take their trial on a charge of false testimony, than that he should deliver up the body of the woman, and get out of

[1] So in our law, in an action for assault and battery, it is a good plea to plead, "that the plaintiff first assaulted the defendant, who necessarily committed the alleged assault in his own defence." This was anciently termed a plea of *son assault demesne, i.e.* that it was the plaintiff's original assault, an expression very similar to the ἄρχειν χειρῶν ἀδίκων of the Athenians. In answer to this plea the plaintiff may show, that the defendant used greater violence than was necessary for self-defence; which used to be called in pleading language *excess.* In issues upon such questions, where a severe injury has been inflicted, it is always incumbent on the defendant to show that it was not wilful on his part; that he intended to act in self-defence. In a case of mayhem, or maiming, Lord Holt laid down the law thus—"If A. strikes B., and B. strikes again, and they close immediately, and in the scuffle B. maims A., that is *son assault demesne;* but, upon a little blow given by A. to B., if B. gives him a blow that maims him, that is not *son assault demesne.*"

his trouble in a fair and just way, not by talking and petitioning, and taking the chance of getting off by deceiving you: and this course he persists in, notwithstanding my repeated challenges and demands to have the woman given up; although I asked at the time to have her for examination, and likewise after the trial, and when I paid them, and as well in my action for assault against Theophemus, as at the hearing before the magistrate in the suit for false testimony: and these men affect ignorance of the whole matter, and, while they give lying testimony about it, refuse in point of fact to deliver the woman up; for they well knew that, if she were put to the torture, they should be proved to be the injuring and not the injured parties.

To prove the truth of these statements, he shall read you the depositions which relate to them.

[*The depositions.*]

That I have repeatedly challenged them, and that, notwithstanding my request to have the woman for examination, I could never get her delivered up, has been proved to you by witnesses. I will now give you ample proof by circumstantial evidence, that their testimony was false. If it were true, as they stated, that Theophemus made the challenge and offered to deliver up the person of the female, surely these men would not have had two witnesses only to the fact, the brother and brother-in-law; they would have produced many more. For the arbitration took place in the court of Heliæa, where the arbitrators for the Œneid and Erechtheid tribes hold their sittings; and when such challenges are given, and a party actually brings his slave and offers him for the torture, many people attend to hear the statements that are made; so that they would have been at no loss for witnesses, if the fact to be deposed to had had a particle of truth in it.

They have stated also in the same deposition, men of the jury, that I would not consent to an adjournment, and that Theophemus requested me to do so, in order that he might deliver the woman up to me. That this is untrue, I will show you. If this challenge, of which they have given evidence for him, had been made by me to Theophemus—if I had called upon him to deliver the woman up—he might

naturally have made this reply, and requested me to adjourn the arbitration to the next meeting, in order that he might bring the woman and deliver her up to me. But, as it is, they have deposed, that you, Theophemus, were yourself desirous of giving the woman up to me, and that I was unwilling to receive her. How comes it, I ask, when you were the woman's master, when you intended to give this challenge which your witnesses have deposed to, when you were obliged to have recourse to this person to establish your case, when you had no other witness to prove that I committed the first assault on you—how comes it that you did not bring the woman to the arbitrator, and offer then and there to deliver her up to me in person, you having her in your possession and control? How comes it that, while you pretend to have given the challenge, no one ever saw the woman, by means of whom you deceived the jury, calling false witnesses and representing that you wished to deliver her up?

However, as the woman was not present at that time, and the boxes were sealed before, did you ever bring the woman afterwards into the market-place or into the court of justice? For, if you did not have her with you on that occasion, surely you ought to have delivered her up afterwards, and had people to witness that you were willing to test the question by her evidence, in accordance with your challenge, as the challenge had been put in the box together with a deposition stating your willingness to deliver the woman up. I ask you then; when the trial was coming on, did you bring the woman to the court? If he really gave the challenge which they say he did, he ought, while they were drawing lots for the jurors, to have brought this female, got the crier to attend, and requested me (if I chose) to put her to the torture, and made the jurors, as they came to the bench, his witnesses that he was ready to deliver her up. As it is, he makes deceitful statements, produces false witnesses, but to this hour he has not ventured to deliver the woman up, notwithstanding my repeated challenges and demands, as the witnesses who were present have testified before you. Please to read the depositions again.

[*The depositions.*]

I wish, men of the jury, to explain to you how I came to bring an action against Theophemus, that you may see, that

he not only procured my condemnation unjustly, by deceiving the jury, but at the same time and by the same verdict procured the condemnation of the Council of Five-hundred, and annulled the authority of your tribunals, annulled that of your laws and decrees, and weakened your faith in the magistrates and the inscriptions on the public tablets.[1] I will show you how he has done this, and inform you of every particular.

I never before in my life had any transaction of business with Theophemus; nor did I ever have a merry-making or a love-affair or a drinking-bout with him; I had not quarrelled with him about any bargain in which he had got the better of me; I was not under the stimulus of any passion; there was no motive of this kind to take me to his house. But in obedience to the law, and to the decrees of the Athenian people and Council, I demanded of this man the ship's furniture in his possession which belonged to the state. Why I did so, I will explain to you. It happened, as some triremes were leaving the port, that a military force had to be shipped off in a hurry. There was not furniture for the ships in the docks, as those persons who had received furniture from the public stores had not returned it; and besides this, there was not a sufficient quantity of sailcloth and tow and ropes, the necessary tackle of a trireme, to be purchased in the Piræus. Accordingly Charidemus frames this decree, in order that the furniture of the ships might be recovered and preserved to the state. Please to read it.

[*The decree.*]

This decree having been passed, the authorities assigned by lot the persons who owed ship's furniture to the state, and delivered the list to the overseers of the docks. The overseers of the docks delivered it to the trierarchs who were then going to sail, and to the overseers of the navy-boards. The law of Periander, according to which the navy-boards were constituted, required and compelled us to receive the list of persons who were indebted for ship's furniture. And besides this, there was another decree of the people, which

[1] On which were inscribed the names of those persons who were accountable to the state for ship's furniture in their possession. See the Argument.

required that they should distribute these debtors among us proportionally, so that we might get in the furniture from each of them. It so happened that I was a trierarch and overseer of the navy-board, and Demochares of Pæania was in the navy-board and was indebted for ship's furniture to the state in conjunction with this Theophemus, having been joint-trierarch with him.[1] Accordingly, as they were both inscribed on the tablet as indebted for ship's furniture to the state, the authorities, having received the names of both from their predecessors, delivered them to us according to the law and the decrees. I was therefore under the necessity of receiving them, or I would not have done so; for in former times, though I have frequently served the trierarchal office, I never received any ship's furniture from the docks, but provided it from my own private means, whenever there was occasion, that I might have as little trouble as possible with the state. Then, however, I was compelled to receive these names according to the decrees and the law.

[1] Böckh observes upon this subject:

"In the case to which the oration against Euergus and Mnesibulus refers, the trierarchs had been already regulated according to the Symmoriæ; the trierarchy, however, of the person for whom the speech was written, which was performed after the establishment of the Symmoriæ, took place in the archonship of Agathocles, Olymp. 105, 3. Yet even at that time two persons were sometimes appointed trierarchs out of the Symmoriæ in order to perform their duties in person. In earlier times no trace of Symmoriæ exists, but of the syntrierarchy alone. It is therefore highly probable that this year was the first in which the Symmoriæ came into operation."

And he adds in a note concerning this particular passage:—

"I must in this place explain away a passage from which it might appear that Symmoriæ were in existence before Olymp. 105, 4. It is the passage on the subject of the Trierarchy in the oration against Euergus and Mnesibulus, p. 1145. It has been already remarked that the syntrierarchy of these two persons must have taken place in Olymp. 105, 2 or 3. Now Demochares was a member of the Symmoriæ in Olymp. 105, 4, and he may thus appear to have served the former syntrierarchy in the Symmoriæ, which, if it were true, would give an earlier date to the Symmoriæ. But what prevents us from supposing that Demochares was syntrierarch before, and did not belong to the Symmoriæ until Olymp. 105, 4? What renders this the more probable is, that he alone is stated to have been in the Symmoria, while Theophemus is not mentioned as a member of one, and if they had both been members of a Symmoria when they performed that trierarchy, Theophemus must have been in the same Symmoria as Demochares; whereas the contrary must be inferred from the words of the orator."

To prove the truth of my statements, I will produce in evidence before you first the decree and the law, next the public functionary, who delivered the names to me and brought the case into court, and lastly, the members of the navy-board, in which I was overseer and trierarch. Please to read the evidence.

[*The law. The decree. The depositions.*]

That I was absolutely under the necessity of receiving the names of those who were indebted to the state, you hear from the law and the decrees. That I received the names from the authorities, the person who delivered them has testified. Now, men of the jury, it is fair that you should look at this case from the beginning, and consider first, whether I did wrong, who was compelled to get from Theophemus what he owed, or whether Theophemus did wrong, who retained so long in his possession the ship's furniture belonging to the state. If you look at the matter closely, you will find that Theophemus has acted wrong throughout, and that this is not merely a statement of mine, but a point decided by the judgment of the Council and the court. For, when I received his name from the authorities, I first went to him and demanded the ship's furniture; he refused to return it at my request: I afterwards lighted upon him near the Hermes by the small gate, and summoned him before the clearing officers and the overseers of the docks; for they were the persons who then brought into court disputes concerning ship's furniture. To prove the truth of my statements, I will call before you the witnesses to the summons.

[*The witnesses.*]

That he was summoned by me, the witnesses have proved. Now, to prove that he was brought into court, please to take the deposition of the clearing officers and the presiding magistrate.

[*The deposition.*]

The party whom I expected to give me trouble, Demochares of Pæania, was disagreeable before he was brought into court, but after his trial and conviction paid up his proportion of the ship's furniture. The person whom I should never have expected to be so far gone in profligacy,

as to dare to rob the state of her naval stores, has proceeded to this length of harassing litigation. He was present in court when the case was brought on, and never made any opposition, never gave in any name and demanded an interpleader, as he should have done if he meant to contend that another party had the ship's furniture, and that he ought not to be called upon to pay: instead of this, he allowed the verdict to be taken against him; but, after he left the court, he did not pay any the more for that, but thought that for the present he would keep out of the way and remain quiet, until I had sailed with the fleet and some time had elapsed, and that I should be compelled to pay the ship's furniture, which he owed to the state, either here on my return, or to my successor, who should be sent from the navy-board to join the ship. For what answer could I have made to him, when he produced the decrees and the laws, showing that I was required to get in the ship's furniture? After a lapse of time, if I had come back and made a demand upon him, Theophemus would have said that he had paid, and, as proofs that he had paid, would have urged these very circumstances, the occasion, the emergency, and that I was not such a fool, and had never been such a friend to him, as to wait for payment: for what earthly reason, when I was serving the state as trierarch and overseer of the navy-board, and when such a law and such decrees were in force, should I have given him time in the collection? This was the idea of Theophemus, and therefore it was that he did not return the ship's furniture at the time, but kept out of the way, and thought that he should afterwards be able to defraud me; and further, he thought that he could have recourse to an oath and perjure himself without difficulty, a trick which he has played others before. For his grasping disposition, in matters where his interests are at stake, is dreadful, as I will show you by actual proof. For Theophemus, while he owed these naval stores to the state, made a pretence of throwing the charge upon Aphareus, but he never in point of fact gave in his name and demanded an interpleader, well knowing that he should be convicted of falsehood, if he came into court. For Aphareus proved that Theophemus had charged him with the value of the ship's furniture and received the money from him, when he became his successor in the trierarchy.

Now he says he delivered it up to Demochares, and he has gone to law with the children of Demochares since his death. In the lifetime of Demochares, Theophemus did not give in his name and demand an interpleader, when I was suing him for the ship's furniture: his only idea was, on the pretence of time having elapsed, to rob the state of these stores. To prove the truth of what I say, he shall read the depositions.

[*The depositions.*]

Reflecting in my mind upon these matters, and hearing from people who had come in contact with Theophemus, what sort of a person he was where his interests were concerned, and finding that I could not get the ship's furniture from him, I applied to the clearing officers and the Council and the Assembly, stating that Theophemus did not return to me the ship's furniture, for which the court had pronounced him to be accountable. And the other trierarchs also applied to the Council, who were not able to get their ships' furniture from the parties liable. And after a long discussion the Council answers us by a decree, which he shall read to you, requiring us to get payment in whatever way we could.

[*The decree.*]

After this decree had been passed by the Council, as no one indicted it for illegality, and so it became valid in law, I went to Euergus the defendant, the brother of Theophemus, as I was unable to see Theophemus himself; and having the decree in my hand, I first demanded the ship's furniture, and requested him to inform Theophemus; then, after waiting a few days, as he did not return the ship's furniture, but only laughed at me, I took witnesses with me and asked him, whether he had divided his estate with his brother, or whether they held it in common. Euergus replied that they had made partition, and that Theophemus lived in a house by himself, while he (Euergus) dwelt with his father. Having then ascertained where Theophemus lived, I got a servant from the Council, and went to his house. Finding him not at home, I desired the woman who answered the door to go and fetch him wherever he might be. This was the woman whom (according to the evidence of the defendants) Theo-

phemus offered to deliver up, but whom I, notwithstanding my demands, cannot get them to deliver up, to inform you of the truth and prove who committed the first assault. She fetched Theophemus, and, on his arrival, I asked him for the inventory of the ship's furniture, telling him that I was just about to set sail; and I showed the decree of the Council. Instead of complying with my demand, he began to threaten and abuse me; so I desired the boy, if he saw any citizens passing by, to call them out of the road, and ask them to witness the conversation for me; and I again required Theophemus either to go himself with me to the clearing officers and the Council, and, if he disputed his liability, to satisfy the authorities who delivered to us the names of the debtors and compelled us to proceed against them, or to return the ship's furniture; if he declined, I said I must levy a distress according to the laws and the decrees. As he was not willing to do anything that was right, I laid my hand upon the female who stood at the door, the same who had gone to fetch him. And Theophemus would not allow me to take her. I then let go the woman, and was proceeding to enter the house, to distrain some of his furniture; for the door had been opened for Theophemus when he arrived, though he had not yet gone in; and I had been informed that he was not married. Just as I was going in, Theophemus strikes me on the mouth with his fist, and I, calling on all who were present to bear witness, returned the blow. Now the truth of what I say, that Theophemus committed the first assault, could be established by nothing so well (I take it) as by the evidence of the woman, whom these witnesses have said Theophemus wished to deliver up. Theophemus, whose action first came before the jury-court, as I did not put in a special plea or make an affidavit for delay, such proceedings having once damaged me in a former cause —Theophemus, I say, deceived the jury by means of this testimony, declaring that the witnesses whom I produced gave false evidence, and that this woman would speak the truth, if she were put to the torture. Their conduct now is shown to be the very reverse of the language which they used on that occasion. For I am unable to get the woman for examination, notwithstanding my repeated demands, as has been proved to you by witnesses. Since, however, they

do not give the woman up, whom they themselves said I was challenged to receive, I will call before you the witnesses, who saw Theophemus strike me the first blow. This is an assault in law, when a man commits the first act of violence, and especially when he strikes one who is levying a public debt pursuant to your law and your decrees. Please to read the decrees and the depositions.

[*The decrees. The depositions.*]

As Theophemus had thus rescued the distress, and laid violent hands upon me, I went to the Council and showed the blows, and told them how I had been treated, and that I had been thus maltreated while collecting the ship's furniture for the state. The Council, indignant at the usage which I had received, and seeing the plight I was in, and considering that the insult had been offered not so much to me as to themselves, and to the people who had passed the decree, and to the law which compelled us to collect the ship's furniture, ordered me to prefer an impeachment, and the Presidents to give Theophemus two days' notice of trial upon a charge of misdemeanor for impeding the departure of the fleet, and that the articles should charge that he refused to return the ship's furniture, and had rescued the distress and beaten me who was levying debts and performing duty for the state. I preferred the impeachment against Theophemus, and it came on for trial before the Council; both sides were heard, and, the Councillors having voted secretly by ballot, he was convicted and found guilty in the Council-chamber, and when the Council were about to divide on the question whether they should deliver him over to a jury-court or sentence him to a fine of five hundred drachms, the highest penalty which they were competent to inflict by law, at the urgent entreaty of all these men, who sent I can't tell you how many persons to intercede for them, and gave up that very instant in the Council the inventory of the ship's furniture, and promised to refer the question of the battery to any Athenian that I liked to name, I consented that Theophemus should be sentenced to the mitigated penalty of five and twenty drachms.

To prove the truth of these statements, I pray that any of you who were councillors in the archonship of Agathocles

will tell what you know to those that sit near you; and I shall call as witnesses before you all the councillors of that year whom I have been able to find.

[*The depositions.*]

I, men of the jury, was thus lenient to these persons. The decree, however, commanded not only that those who failed to return any ship's furniture belonging to the state, but that whoever possessed any of their own and declined to sell it, should be liable to have their property confiscated. Such a scarcity of ship's furniture was there at that time in the city. Read me the decree.

[*The decree.*]

When I had returned from my voyage, men of the jury, as Theophemus would not refer to any one the matter of the blows which he had given me, I summoned him and commenced against him an action of assault. He summoned me in a cross-action, and, the causes having been sent to arbitration, when the time came for pronouncing the award, Theophemus put in a special plea, and made an affidavit for adjournment. I, feeling confident that I had done no wrong, came to try the cause before you. Theophemus produced this testimony, to which no one else has deposed, but only his brother and brother-in-law, namely, that he was willing to give up the female slave; and so, pretending to be an honest and straightforward person, deceived the jurors. I now make a fair request to you, that, while you decide about this testimony, whether it is true or false, you will at the same time consider the whole case from the beginning. My opinion is, that proof should be obtained by the very means which Theophemus then appealed to as the fair test, namely, by putting the woman to the torture, and ascertaining from her evidence which party struck the first blow; for that constitutes assault. And on this account am I suing the witnesses for false testimony, because they said that Theophemus was willing to give up the woman, when, in fact, he never would give her body up, either before the arbitrator or afterwards, notwithstanding my repeated demands. They ought therefore to suffer a double punishment, first, because they deceived the jurors by producing the false testimony of a brother and a brother-in-law; secondly, because

they did me an injury while I was zealously discharging an official duty, doing what the state commanded me, and obeying your laws and decrees.

To show you that I am not the only person employed in such a duty; that, while I received this man's name from the authorities, with orders to get from him the ship's furniture which he owed to the state, other trierarchs proceeded against other parties whose names they received—read me the depositions relating to these matters.

[*The depositions.*]

I wish now, men of the jury, to tell you how they have used me. After judgment had passed against me in the action, in which these witnesses gave the false evidence for which I sue them, when the time for paying the judgment was near expiring, I went to Theophemus and asked him to wait a little while, stating the truth, that, after I had provided the money to pay him with, a trierarchy had been cast upon me, and I had to send off the trireme in great haste, and Alcimachus the general had ordered me to furnish the ship for him : so I was obliged to employ for this purpose the money provided to pay Theophemus. I requested him to extend the day of payment till I had sent off the ship. He answered me readily and quite innocently : "very good"—said he—"when you have sent off the ship, then provide the money for me." As Theophemus had made me this answer and given further time for payment, and as I mainly relied upon my suit for false testimony and their unwillingness to deliver up the female, and therefore thought it unlikely that they would take any fresh steps in my affair, I despatched the trireme, and not many days afterwards, having provided the money, I went to him and requested him to follow me to the bank and receive the amount of the judgment. To prove the truth of these statements, he shall read you the depositions.

[*The depositions.*]

Theophemus, instead of following me to the bank and receiving the judgment, went and took fifty soft-wooled sheep of mine, together with the shepherd and all that belongs to them, and also a boy in my service, who was carrying back a brass pitcher, which had been borrowed of a neighbour, of great value. And they were not satisfied with having these

things; they broke into the farm—(I farm a piece of land close to the race-course, and have dwelt there from a boy)—and first they made a rush to seize the slaves, but the slaves escaped and ran off, some one way and some another; so they came to the dwelling-house, and having knocked open the gate leading to the garden, they entered—(I mean the defendant, Energus, the brother of Theophemus, and Mnesibulus, his brother-in-law, to whom I owed no judgment debt, and who had no right to touch anything of mine)—they entered, I say, into the apartments of my wife and children, and carried off all the furniture that was left in the house. They were disappointed in getting so little, for they expected to find the stock of household furniture much larger; but in consequence of the public charges and taxes which I have had to pay, and the liberality which I have exercised towards you, a part of the furniture is in pawn, and a part has been sold. Everything that was left they took and went off with, and besides this, men of the jury—my wife happened to be dining with the children in the open court,[1] and with her was an aged woman, who had been my nurse, and whom, for her fidelity and attachment, my father had set free. After receiving her freedom she married and lived with her husband; but on his death, as she was advanced in years and had no one to maintain her, she came back to me. It was impossible for me to suffer my old nurse, any more than my instructor,[2] to remain in want; and at the same time I was going out as trierarch, so that my wife too was willing that I should leave such a person with her to assist her in housekeeping. Well; they were dining, as I say, in the open court, when these persons burst in upon them and began to seize the furniture. The other female domestics, (who were in the attic,[3] which was their part of the house,) hearing the noise, closed the

[1] The court of the Gynæconitis. See the description of a Grecian house in the Charicles, Excursus i. to scene iii.

[2] So Pabst, according to the reading of Bekker and Schäfer:—"wo es denn natürlich Pflicht für mich war, so wenig meine gewesene Amme, als meinen Erzieher im Mangel zu verlassen." It is impossible to express in a modern translation the Athenian παιδαγωγός, who was a slave, employed to take his master's son to school, carry his books, &c. See the Charicles, Excursus on Education.

[3] This was an upper story, which, not covering the whole of the ground floor, was called πύργος, *a tower*. Charicles, Transl. page 266.

door leading to the attic, so that the men did not effect an entrance there; but they carried away all the furniture from the other part of the house, although my wife warned them not to touch it, and informed them that it was mortgaged to secure her marriage portion:—"and you have"—said she—"the fifty sheep and the boy and the shepherd, whose value exceeds your judgment debt,"—for one of the neighbours had knocked at the door and brought this intelligence. Besides, she told them that the money was lying at the bank for them; for she had heard that from me: "and if you will wait"—she said—"or if one of you will go and fetch my husband, you shall take the money away with you directly; but leave the furniture, and don't seize anything that belongs to me, especially as you have the full value of your judgment." In spite of my wife's remonstrance, they not only refused to wait, but—the nurse having taken a cup that was by her, from which she was drinking, and put it into her bosom, to prevent these men taking it, when she saw them in the house—Theophemus and his brother Euergus, who saw what she did, used force to get the cup from her, and handled her so roughly, that her arms and wrists were suffused with blood, from their wrenching and twisting of her hands and pulling her about in taking away the cup, and she had bruises on her neck from their pinching and squeezing, and her breast was black and blue. Such was the extent of their brutality, that, until they had got the cup from her bosom, they never ceased squeezing and beating the old woman. The servants of the neighbours hearing the noise, and seeing my house pillaged, some of them called from their roofs to the people who were passing by, some went into the other road, and seeing Hagnophilus pass by, requested him to come. Hagnophilus came up; he had been called by the servant of Anthemion, who is my neighbour; but he did not go into the house, thinking it was not right in the absence of the master: he stood, however, upon Anthemion's land, and saw the furniture carried away, and Euergus and Theophemus going out of my house. And they not only went off with my furniture, men of the jury; they were taking away my son also, as if he had been a slave, until Hermogenes, one of my neighbours, met them, and told them that he was my son. To prove my statements, he shall read you the evidence.

[*The deposition.*]

When the news was brought to me in Piræus by the neighbours, I went to the farm, but found these men gone: I saw that the household goods had been carried away, and in what a condition the old woman was. Having heard from my wife what had taken place, I went early the next morning to Theophemus in the city: I had witnesses with me, and I desired him first to receive payment of his judgment debt and follow me to the bank; after that, I called on him to provide medical assistance for the woman whom they had beaten, and I said they might bring what surgeon they pleased. I gave this formal notice to him in the presence of witnesses. Theophemus and Euergus both poured a torrent of abuse upon me: Theophemus followed me with much reluctance, making all the delays that he could, and saying that he wanted himself to take witnesses with him; this was an artful pretence to gain time. Meanwhile Euergus, the defendant, went straight from the city, in company with some others like himself, to the farm. A few of the household goods, which the day before were in the attic and not outside, as it happened, had of necessity been brought downstairs, after I came home. Euergus, having knocked open the gate which he had broken on the previous day, and which was scarcely at all fastened, seized the remnant of furniture, and went off with it—Euergus, I say, a person to whom I owed no judgment, and with whom I never had any transaction whatsoever! When I paid Theophemus to whom I owed the judgment—(I paid him in the presence of several witnesses eleven hundred drachms for the damages, a hundred and eighty-three drachms two obols for costs, and thirty drachms for the court fees;[1] there was no penalty that I owed him)—I say, when he had received from me at the bank thirteen hundred and thirteen drachms and two obols, the total amount, I demanded from him the sheep and the slaves and the furniture of which he had plundered me. He declared that he would not return them, unless he and his assistants were released from all claims and demands, and unless the witnesses were released from the suit for false testimony. Upon his giving me this answer, I requested the witnesses

[1] According to Böckh's emendation, adopted by Pabst and others.

who were present to take notice of what he said; I paid him the judgment, however, and did not choose to be in default. As to Euergus, I did not even know that he had gone into my house that day; but immediately after the judgment had been paid, and while Theophemus still had in his possession the sheep and the slaves and the furniture which I had on the previous day,[1] a stonemason, who was working at the neighbouring monument, brought me tidings that Euergus had levied another execution at my house and gone off with the rest of the furniture; this person whom I never had anything to do with!

To prove the truth of these statements—that they had seized my goods in execution on the previous day, and on the following day got the money from me—(but if the money had not been provided, and I had not given them notice, how could they have received payment?)—and that they went again into the house on the very day that I paid the money—he shall read you the evidence of the depositions.

[*The depositions.*]

The notice which I gave him, to bring a surgeon and cure the woman whom they had so beaten, he paid not the slightest regard to, men of the jury; so I myself brought her a surgeon, whom I had employed for many years, who attended her during her illness. I showed him the condition she was in, and brought witnesses. Hearing from the surgeon that the woman was in a hopeless state, I went to these men again with other witnesses, explained the state the woman was in, and required them to find medical aid for her. On the sixth day after they had entered my house, the nurse died. To prove the truth of these statements, he shall read you the depositions.

[*The depositions.*]

After her death I went to the Interpreters,[2] to learn what course I ought to take in the matter; and I detailed to them everything which had taken place, the arrival of these men, the attachment of the woman to our family, the cause of my

[1] The text is apparently corrupt—as also a part of the next paragraph, where I follow the transposition of Reiske.

[2] These were three members of the family of the Eumolpidæ, whose duty it was to expound the religious and ceremonial laws, interpret omens and oracles, perform expiatory sacrifices, &c.

having her in my house, and that she had lost her life for not giving up the cup. The Interpreters, having heard my story, asked me whether they should expound the law to me only, or give me advice also. I replied, "Both." "Very well"—they said—"then we will expound to you what the law is, and advise you what is for your good. The first thing is, to carry a spear in front of the funeral procession,[1] and to make proclamation [2] at the tomb, if there is any one connected with the woman; and, after that, you must watch the tomb for three days. The advice that we give you is as follows. As you were not present yourself, but only your wife and children, and you have no other witnesses; we recommend you not to make proclamation against any one by name, but generally against the homicides and guilty parties; and further, not to commence proceedings before the king-archon. For the woman does not come within the law to enable you, as she is no relation, and was not even a servant, according to your account. It is to relations and masters that the law assigns the duty of prosecuting. Should you therefore take the oath in the Palladium, you and your wife and children, and should you imprecate curses upon yourselves and your house, many people will form an unfavourable opinion of you, and, if your adversary be acquitted, you will be thought to have committed perjury, if you convict him, you will incur public odium. Our advice is, that you perform the necessary religious ceremonies for yourself and your house, then bear the misfortune as patiently as you can, and take vengeance, if you like, in some other way."

[1] "Those who had died a violent death were interred with peculiar formalities. To symbolize the pursuit of the murderer, which was incumbent on the relations, a lance was carried in front of the procession, and stuck upright by the grave, and this was watched for three days." Charicles, Transl. p. 402.

[2] This was a proclamation giving notice to the homicide, to keep away from the tomb, and from all public places and sacrifices. It was followed, in case of a prosecution, by another notice, given in the market-place, warning the party accused to appear and answer to the charge. See article *φόνος* in the Archæological Dictionary.

Pabst understands these words differently, translating—"und am Grabe ausrufen: ob irgend ein Anverwandter von der Frau vorhanden sey?"

Auger:—"et qu'un des parents annonce au meurtrier, de ne pas approcher au tombeau."

After receiving this opinion from the Interpreters, and after looking at the extract of Draco's laws from the pillar, I took counsel with my friends as to the course of action to be pursued. As they gave me similar advice, I did what I was bound to do on behalf of the house and what the Interpreters had prescribed, and I refrained from taking further proceedings which the laws would not justify. For the law, men of the jury, requires, that the relations shall prosecute within the degree of cousin's children inclusive; and in the oath it is declared what relationship the party bears, and, if the deceased be a servant, it directs that the master shall institute criminal proceedings. But the woman had no kind of family connexion with me, except that she had been my nurse; and she was not a servant either; for she had been set free by my father, and occupied a separate house, and had a husband. To tell you a false tale, and back it by an oath on the heads of myself and my son and my wife, is a thing which I could never have brought myself to do, even had I been certain that I should convict my opponents: for I do not hate them so much as I love myself. That you may not only hear it from my citing, he shall read you the law itself.

[*The law.*]

I imagine, men of the jury, the falsehood of the deposition is apparent to you in many ways: but you can see it most easily from their own conduct. They thought, men of the jury, that I, if they levied a large quantity of my goods, should be glad to release the witnesses from the charge of false testimony, in order to get back the goods. And when I asked Theophemus to allow me further time to pay the judgment, he gladly complied with my request, in order that I might become liable to his execution, and he might carry off as many of my goods as possible. And therefore he gave his assent immediately and with seeming innocence, in order that I might put faith in him and not suspect his design; for he believed he had no other means of getting the witnesses released from the charge of false testimony, but by entrapping me and catching me in default and levying as large an execution as possible; for he expected not only what they have taken from me, but a great deal more. And he waited the

rest of the time, thinking that I should not speedily provide the money, and intending to levy execution against me just when the trial for false testimony was coming on; but, when I gave him notice to come and receive the judgment, he went and took my furniture and slaves and sheep, instead of coming and receiving payment. My farm is close to the race-course, so that he had not far to go. Of the truth of what I am telling you here is positive proof—he got the amount of the judgment the day after he levied the execution. How could he have got immediate payment of this sum, thirteen hundred and thirteen drachms two obols, if I had not provided it? And the goods which he levied he refused to return, and keeps them even now, as if I were in default. To show that I was not in default, read me the deposition and the law, which declares, that whatever one party agrees to with another, the terms shall be binding: this surely proves, that he could no longer treat me as a defaulter.

[*The law. The deposition.*]

That he assented to my request and granted further time to pay the judgment, has been proved to you in evidence. That I was trierarch, has been proved by my colleague, and also that the admiral ship was furnished for Alcimachus. Surely then he could no longer treat me as a defaulter, after giving me time, and more especially when he was paid. But his covetous spirit, where it is a question of gain or loss, is dreadful, men of the jury. And they well knew that, should they deliver up the woman for examination, the falsehood of their charge would be exposed; on the other hand, if they refused to deliver up a person whom (according to their evidence) Theophemus was willing to deliver up, they should be convicted of false testimony. I beseech you, men of the jury, should any of the former jurors happen to be on the bench, to act on the same principles as you did then. If you believed that the deposition was worthy of credit, and that I shrank from the test which the woman's evidence would have afforded; now, when they are proved to have given false testimony and refused to deliver up the woman, I ask you to give me redress; if you were angry with me for going to the house of Theophemus to distrain, I ask you now to be angry with these persons for going to my house. And I, while I

was acting in obedience to laws and decrees, was careful not to intrude upon the father or the mother of Theophemus, or to take anything belonging to his brother; I went to the house of Theophemus himself; and, when I found him not at home, I did not seize anything and go off with it, but desired that he should be fetched, and I took the distress in his presence, not in his absence; and, when he resisted, I gave it up, and applied to the Council, the proper authorities; and, after preferring my impeachment and convicting him before the Council, I was content to get a return of the ship's furniture alone, and to leave the question of the battery to a reference, and assent to the mitigated penalty. Thus, as you see, I was lenient to my adversaries: they were so indecent and brutal, that they intruded themselves upon my wife and children, although they had taken the sheep and the slaves, of greater value than their judgment; and although they had given further time for payment, and I had given them notice to come and receive the judgment, as has been proved to you in evidence; and having entered into my house they not only carried away the furniture, but beat and bruised the nurse, an old woman, for the sake of a cup; and they still keep possession of all these things and will not restore them, although I have paid the judgment debt, thirteen hundred and thirteen drachms two obols.

If any one upon the former occasion, in ignorance of the truth, imagined them to be harmless and inoffensive persons, I wish to read you evidence of their character, furnished by witnesses whom they have injured. To tell it you in my speech the water-glass would not permit. I will read it therefore, that when you have considered the whole case, the arguments as well as the evidence, you may give such verdict as right and justice require at your hands. Read the depositions.

[*The depositions.*]

THE ORATION AGAINST OLYMPIODORUS.

THE ARGUMENT.

Callistratus, the plaintiff, seeks to recover from his brother-in-law, Olympiodorus, a moiety of the property left by Conon, a deceased relative. The plaintiff and defendant had agreed to divide the inheritance equally between them, and to co-operate together in resisting all other claims. Olympiodorus, having by the collusive aid of his associate ultimately established his title, and got possession of the whole estate, refuses to share it with Callistratus, under the pretext that he had not performed his part of the engagement; and Callistratus is compelled to bring an action to enforce his demand.

Upon the circumstances of this case I have already commented in the sixth appendix to the fourth volume (page 366). Others, besides me, have expressed astonishment that such an action could be brought, where the plaintiff founds his claim upon a fraudulent conspiracy with the defendant, and confesses that he assisted his accomplice to gain the cause by false statements and false evidence. Wolf is eloquent in his indignation :—" O miram impudentiam hominis, qui suam improbitatem confiteri non erubescat, et dissolutionem judicum, si talia scelera ulti non sunt ! " Auger cannot tell what to make of it :—" Il est bien étonnant que Callistrate convienne devant les juges de tout son manege avec Olympiodore ; il fallait que le plaideur et les juges fussent bien peu scrupuleux." Schäfer remarks that the Athenians measured fraud by a different standard from people in modern times. That combinations between different claimants were not uncommon at Athens, may be inferred perhaps from what we have read in the case of Macartatus, (ante, p. 5,) and from Isæus, de Haguiæ hereditate, 85, 86, Edit. Bekker. There is a difference however between an agreement to defend a title which is doubtful by legitimate means, and a combination to gain an estate by fraud and falsehood; and the law of Athens perhaps recognised this difference, though it might be forgotten sometimes by covetous individuals. The plaintiff in this action appears to have had some doubts of its success, if we may judge from his proposals for a compromise both before and at the trial.

It may seem strange that Callistratus, who represents himself to have been Conon's nearest relation, should have consented to divide the estate with his brother-in-law, who (according to him) had no title whatsoever. The explanation perhaps is, that, Olympiodorus being unmarried and without children, his niece, the plaintiff's daughter, was likely to inherit his property, and therefore the plaintiff wished to conciliate him. Afterwards Olympiodorus fell under the influence of a woman, whom he took into keeping, and who caused a rupture between him and his relations.

Pabst thinks it odd, that the plaintiff should not have sought to establish his title to Conon's estate as next of kin. The answer to this is, that in the inheritance suit he sacrificed his individual claim on account of the agreement with Olympiodorus; and in the present action he could only succeed under the agreement, his right as Conon's heir being barred by the former verdict, unless he could convict some of the witnesses of false testimony, which, under the circumstances, he could hardly attempt to do.

It is perhaps necessary, men of the jury, that even persons who have neither practice nor ability in the conduct of causes should come into court, when they suffer wrong from any party, especially from those who are the last persons that ought to have wronged them; as is my case now. For I have been unwilling, men of the jury, to go to law with Olympiodorus, who is a connexion of mine and to whose sister I am married, but I have been forced into it by the magnitude of the wrong which he has done me. If I were proceeding, men of the jury, upon a false charge, and without any real ground of complaint, or if I were not willing to refer our dispute to the defendant's friends and my own, or if I had declined any fair and reasonable terms, believe me, I should have been thoroughly ashamed of my own conduct, and had a very mean opinion of myself. In point of fact, however, I am a great loser by the fraud of Olympiodorus; I have not refused to submit the matters in difference to any referee; and so far from having been desirous to bring this cause to trial, I swear by the supreme Jupiter, I have done it with exceeding reluctance, and only because the defendant has compelled me. I entreat you therefore, men of the jury, when you have heard us both, and examined the case for yourselves, if possible, to settle our quarrel and dismiss us, and so be the benefactors of us both; but if you cannot accomplish this, I ask you to take the only course which is left, to give your verdict in favour of that party who makes out a just case.

We shall first read you the evidence, showing that it is the defendant's own fault and not mine, that he is brought into court. Read the depositions.

[*The depositions.*]

That I offered fair and equitable terms to Olympiodorus, has been proved to you, men of the jury, by those who were

present. As he does not choose to do anything that is right, I am obliged to lay before you the injury which I have suffered at his hands. My statement will be brief.

There was a certain Conon of Halæ, men of the jury, a connexion of ours. This Conon died after a short illness, leaving no children. He had lived many years, and died at an advanced age. When I found that he was not likely to recover, I sent for the defendant Olympiodorus, that he might be with me, and assist in looking after what was to be done. And Olympiodorus, men of the jury, came and stayed with me and my wife, his sister, and helped us in making all the arrangements. While we were thus employed, Olympiodorus the defendant made an unexpected communication to me, informing me that his mother was related to Conon, the deceased, and that he was entitled to have a share in all the property which Conon left. I, men of the jury, knowing that he told a falsehood and was attempting an impudent fraud, and that there was no person so nearly related to Conon as myself, was at first exceedingly wroth and indignant at the impudence of his assertion; upon consideration however, I thought that it was hardly the proper time to give way to anger, and I replied to Olympiodorus, that for the present we had to bury the dead and pay him his funeral honours, and, when we had discharged that duty, we would discuss our own affair. The defendant, men of the jury, assented to this, and said I was quite right. When we had performed the last offices to the deceased, and were at leisure, we asked our friends to attend, and quietly discussed the defendant's claim. The various questions that arose between us in this discussion I need not annoy you, men of the jury, or trouble myself by relating. The result that we arrived at, however, it is necessary you should hear. We gave mutual judgment upon each other's claims, and arranged, that each of us should take a moiety of what Conon had left, and that all unpleasantness between us should terminate. And I chose, men of the jury, of my own free will, to let Olympiodorus have a share in the inheritance, rather than come into court and risk a trial with a relation, in which I should have to say unpleasant things of my wife's brother and my children's uncle, and hear equally disagreeable things from him. All this passed through my mind, and induced me to come to terms with him.

After that we drew up articles of agreement upon all points, and swore solemn oaths to one another, engaging that we would fairly and honestly divide all the property left by Conon that we knew of, without either having any advantage over the other, and that we would make joint search and inquiry for all the rest, and take all measures in concert that might from time to time be necessary; for we suspected, men of the jury, that some other claimants of Conon's property would make their appearance. For example, there was my brother, by the father's and not by the mother's side, who was out of the country; and if any one else chose to put in a claim, we had no means of preventing it; for the laws declare that whoever chooses may put in his claim. Foreseeing these possible contingencies, we drew up our articles of agreement and bound ourselves by mutual oaths, so that we should neither of us be at liberty to act independently, whether we wished it or not, but should take counsel and act together in everything. And we called to witness this engagement, as well the gods, by whom we swore to observe it, as also our own friends and relations, in particular, Androclides of Acharnæ, with whom we deposited the articles.

I wish, men of the jury, to read you the law, according to which we drew up the articles of agreement, and also the deposition of the person who has the articles in his custody. Read the law first.

[*The law.*]

Now read the deposition of Androclides.

[*The deposition.*]

After we had sworn mutual oaths, and the agreement had been deposited with Androclides, I divided the property into two shares, men of the jury. One share consisted of the house in which Conon himself dwelt, and the slaves employed in weaving sackcloth; the other comprised another house, and the slaves employed in grinding colours. The ready money, which Conon left in the bank of Heraclides, had been nearly all spent upon his interment and funeral rites, and on the building of his tomb. When I had divided the property into these two shares, I gave the defendant Olympiodorus his option to take which of the two shares he pleased, and he

chose the colour-grinders and one of the houses; I took the sack-weavers and the other house. This is what each of us had. In the share of Olympiodorus there was a person named Moschion, one of the colour-grinders, whom Conon used to regard as his most faithful servant. This person knew pretty well all the affairs of Conon, and, among other things, he knew where the cash was, which Conon kept in his house: in fact Conon, who was advanced in years, and put trust in this servant Moschion, was not aware that he stole his money. He first stole from his master a sum of a thousand drachms, which was kept separate from the other cash; afterwards, a sum of seventy minas. The thefts were not discovered by Conon; and the slave kept the whole of this money for himself. Shortly after we had divided the property between us, men of the jury, a suspicion arose against this man, and an inkling that something was wrong. In consequence of such suspicion, Olympiodorus and myself resolved to put the man to the torture. And the slave, before he was put to the torture, confessed, men of the jury, that he had stolen a thousand drachms from Conon, and said that he had still by him all that had not been spent; (about the larger sum he did not say a word at that time;) and he returns about sixty drachms. And of this sum which the man returned we made a fair and honest division, according to the oaths which we had sworn, and the articles of agreement which were deposited with Androclides, I taking one half, and the defendant Olympiodorus the other.

Not very long after this, the suspicions which had been excited against the slave in the affair of the money which he returned, induced Olympiodorus to bind and put him to the question again. He did it this time by himself, without asking me to attend, although he had sworn to make all inquiries and do everything in concert with me. And the slave, men of the jury, under the pain of the torture made a further confession, and acknowledged that he had stolen from Conon the seventy minas, and he returns the whole of this sum to Olympiodorus the defendant. I, men of the jury, when I heard of the slave having been questioned, and that he had returned the money, supposed that Olympiodorus would pay me the moiety of this sum, as he had before paid me a moiety of the thousand drachms. And I did not begin

to press him immediately, believing that he would see what was right and arrange things for our common interest, so that each of us should have what he was entitled to by virtue of the oaths and the agreement, by which we were to share equally all that Conon had left. Finding however that he delayed and did nothing, I addressed myself to him, and demanded to have my share of the money. Olympiodorus continued to make some excuse or other and put me off. And just at this time certain other persons preferred claims to the inheritance of Conon, and Callippus, my half-brother by the father's side, returned from abroad; and he too preferred his claim to a moiety of the inheritance. This served as a new excuse to Olympiodorus for not paying me the money, as the claimants were numerous, and he said I must wait until the determination of the suit. And I was obliged to consent, and did consent to do so.

After that, Olympiodorus the defendant and myself consulted together, as we had sworn to do, upon the best and safest way of dealing with the adverse claimants. And we resolved, men of the jury, that Olympiodorus the defendant should make claim to the whole of the estate, and that I should claim a moiety, inasmuch as my brother Callippus claimed a moiety only. When all the claims had been heard before the archon, and the cause was about to come on for trial, Olympiodorus and myself were wholly unprepared to try at that moment, on account of the number of claimants who had suddenly appeared against us. In that emergency we put our heads together, to see if it was possible to get an adjournment for the present, so that we might prepare ourselves for the trial at our leisure. And by good luck it happened, that you were persuaded by the orators to send troops into Acarnania, and Olympiodorus the defendant (among others) had to serve in the army, and he went out with the rest. Here, as we thought, was an excellent ground for delay, the defendant being abroad on military service; and when the archon summoned all the claimants into court according to law, I made an affidavit asking for an adjournment on the ground that Olympiodorus the defendant was out on a campaign in the public service. Our adversaries replied to this by a counter-affidavit; and attacking Olympiodorus, and having the last word, they got the jury to

decide, that he was away on account of the trial and not in the service of the public. The jury having so decided, the archon Pythodotus struck out the claim of Olympiodorus according to law; and this being struck out, it became necessary also for me to abandon my claim to a moiety of the estate. Thereupon the archon adjudged the estate of Conon to our adversaries; for the laws compelled him so to do. They, as soon as they had obtained the adjudication, went straight to the Piræus to get from us all that either had taken upon the partition. And I, being at home, delivered up to them what I had had; for it was necessary to obey the laws: Olympiodorus being out of the country, they took immediate possession of all his share, except the sum of money which he had separately received from the man, the slave (that is) whom he put to the question; for they had no means of getting hold of this money.

Such were the events that occurred while Olympiodorus was abroad. and such was the benefit which I derived from my connexion with him. When the defendant returned to Athens with the rest of the troops, he was indignant, men of the jury, at what had occurred, and thought that he had been very harshly treated. While he was yet full of his indignation, we again put our heads together, Olympiodorus the defendant and I, and deliberated what course we should take to recover the property. The result of our consultation was, that we determined to sue the successful parties, summoning them in the usual way; and under the circumstances it appeared to be the safest course, not to make it a joint suit and risk all upon a single chance, but each to appear independently, and that Olympiodorus should put in a claim to the whole estate, as he had done before, and conduct his case by himself, whilst I put in my claim to the moiety, as my brother Callippus claimed the moiety only; so that, if Olympiodorus the defendant should win the cause, I might, according to our oaths and our agreement, get back my share from him, or, if he should lose and the jury give an adverse verdict, he might recover his share from me fairly and honestly, as we had promised and sworn to each other. After we had resolved upon this course of action, which both to Olympiodorus and myself appeared to be the safest and the best, the various parties in possession of Conon's estate were summoned

according to law. Please to read the law, according to which the summons was given.

[*The law.*]

According to this law, men of the jury, the parties were summoned, and we set forth our respective titles on the record[1] in the manner approved by Olympiodorus. And after that the archon heard our various claims, and prepared the cause for trial, and brought it into court. And Olympiodorus opened his case first, and said whatever he pleased, and produced such evidence as he thought proper; and I, men of the jury, sat in silence on the opposite platform. The trial being managed in this way, Olympiodorus got the verdict without difficulty. After getting the verdict however—after his having accomplished all our objects in the court—after recovering from the former successful parties all that they took from us—having all this now in his possession, besides the money which he got from the slave who was put to the torture—Olympiodorus will not do anything that is fair and just to me, but keeps the whole property himself, in spite of his oath and agreement with me to share everything equally. The articles of agreement are even now in the custody of Androclides, who has himself given evidence in the cause.

I will produce further evidence before you, to prove all the statements which I have made: and first to prove, that the defendant and myself settled our dispute amicably in the beginning, and took equal divisions of all the estate of Conon that we knew of. Please to take this deposition first, and then read the rest.

[*The deposition.*]

Now please to take the challenge which I gave Olympiodorus concerning the money which he took from the tortured slave.

[*The challenge.*]

[1] A different interpretation of the words ἀντεγραψάμεθα τὰς ἀμφισβητήσεις is given by Meier and Schömann, in the Attic Process, page 756. Pabst follows them in his version :—"reichten wir die Nichtigkeitsklage, wodurch wir unsere Ansprüche auf die Erbschaft geltend machten, ein"

It seems to me that the expression has no reference to the obtaining of a new trial. The proceeding taken by these parties was the commencement of a new suit.

Now read the other deposition, showing that, when our adversaries had obtained an adjudication, they got from us all that we had in our possession, except the sum of money which Olympiodorus received from the tortured slave.

[*The deposition.*]

How Olympiodorus and myself originally divided between us the visible estate of Conon, you have heard from my statement, men of the jury, and it has been proved to you by the witnesses. You have learned also, that Olympiodorus received the sum of money from the slave, and that the parties who recovered the estate got all that we had taken and kept it, until the defendant obtained a verdict on the second trial. I must now draw your attention to the reasons which he assigns for not paying me my share and acting fairly by me: pray attend, men of the jury, that you may not be misled presently by the orators, whom he has engaged against me.

He never indeed says the same thing, but sometimes one thing and sometimes another, just as it happens; he goes about making absurd excuses and frivolous insinuations and false charges; and there is nothing honest about him in the whole business. Many have heard him say, that he never received the money from the slave at all; but again, when the receipt of the money is brought home to him, he declares that he got it from his own servant, and I shall have no share either of this or anything else that Conon left. When any of our common friends ask him, why he refuses to pay me, after having sworn to share everything equally, and when the articles of agreement are still subsisting, he says that I have broken the agreement and used him shamefully, and he says that I have all along been speaking and acting in opposition to him. Such are the excuses which Olympiodorus sets up. He has nothing to appeal to, men of the jury, but grounds of suspicion invented by himself, false pretences and wicked contrivances, got up expressly to cheat me out of a just demand. I, on the contrary, when I accuse Olympiodorus of falsehood, shall have more than suspicion to confirm the charge; I shall exhibit in strong light the shamelessness of his conduct, as well by the facts which I shall lay before you, the truth of which is notorious, as by the direct testimony which I shall offer upon every point.

In the first place, men of the jury, I say—Olympiodorus declined a reference to our common friends and relations, who knew all about the circumstances of the case, and had watched their progress from the beginning; and he declined for this reason, because he knew perfectly well that, if he told any untruth, they would instantly see through it and expose him; whereas now he possibly thinks he may tell lies without your finding him out. Again I say—it is not consistent, Olympiodorus, with my acting in opposition to you, that I should join you in defraying necessary expenses from time tc time, or that I should have voluntarily abandoned my claim at the time of your being abroad, when your claim was struck out because it was thought that you were away on account of the trial and not on the public service. I might have prosecuted my own claim to a moiety of the inheritance; (for no human being disputed my title, but all the adverse claimants allowed it;) only, had I so acted, I should have committed downright perjury, as I had sworn and agreed with you tc take all measures in concert, and do whatever upon consultation was thought to be advisable. Hence it appears that the pretexts and excuses which you allege for refusing to do me justice are altogether absurd and frivolous. But let me ask another question—Do you suppose I should have permitted you, Olympiodorus, upon the last trial for the inheritance, either to make the reckless assertions which you made to the jury, or to give such evidence as you did upon the points on which you called witnesses, unless I had been acting in combination with you? Why, the defendant, men of the jury said anything that he liked in the court, and (among other things) told the jurors that I had rented of him the house which I received as part of my share on the division, and that I had borrowed of him the sum of money which I received, the moiety (that is) of the thousand drachms obtained from the servant. And he not only told this story, but produced evidence in support of it: and I said nothing in contradiction; not a word, not a syllable was heard from my lips, while the defendant was conducting his case; I admitted the truth of all that he chose to assert; I was bound to do so, for I was co-operating with you, Olympiodorus, according to our arrangement. If what I am saying is untrue, why did I not take proceedings against the witnesses who gave that

evidence? Why, instead of that, did I remain perfectly quiet? Or why did you, Olympiodorus, never bring an action against me for the rent of the house which you had let to me, and which was your own, as you said, or for the money which you told the jurors you had lent me? You did neither the one nor the other. How could any mortal then be convicted more clearly than you have been of falsehood, of inconsistency, and of calumny?

But now for the strongest proof of all, to convince you, men of the jury, of his covetousness and dishonesty. If there is a word of truth in what he now asserts, he should have declared and pointed it out before he went to trial and before he made experiment how the jury would decide. He should have taken several witnesses with him and insisted on withdrawing the articles of agreement out of the custody of Androclides, on the ground that I was violating their terms and acting in opposition to him, and that the articles were no longer in force between us, and he should have protested to Androclides, the depositary, that he had no longer anything to do with those articles of agreement. This is what he should have done, men of the jury, if there was any truth in his assertions; he should have gone to Androclides and made this protest at all events, whether he went by himself or with witnesses; but he should rather have gone with a number of witnesses, so that a number of persons might have been privy to the fact. To show you that he did nothing of the kind, you shall hear the deposition of Androclides himself, with whom the articles of agreement are deposited. Read the deposition.

[*The deposition.*]

Consider another thing which he has done, men of the jury. I gave him a challenge and requested him to come with me to Androclides, with whom the articles of agreement are deposited, and to make a joint copy of the agreement and then seal it up again, and put the copy into the evidence box, that there might be no suspicion of any foul play, and that you might hear the plain and simple truth and so arrive at a just decision. Upon my giving him this challenge, he refused to do anything of the kind; this is his cunning policy, tc prevent your having the agreement read from an

admitted copy. To prove that I gave this challenge to the defendant, he shall read you a deposition by the persons in whose presence I gave it. Read the deposition.

[*The deposition.*]

Could any exposure be more complete than this of Olympiodorus, proved as it is, that he declines to act fairly by me in any way, that he endeavours to defraud me of my rights by means of excuses and calumnies, and that he did not wish you to hear the agreement which he says I have broken? How differently I have acted—I challenged him then before the witnesses who were present, and I challenge him again now before you the jurors, and I call upon him to consent and I myself consent, to have the articles of agreement opened here before the court, and let you hear them, and have them sealed up again in your presence. Here is Androclides in court; I gave him notice to attend with the articles of agreement. And I consent, men of the jury, that they shall be opened during the defendant's speech, either his first or his second; it makes no difference. I am desirous that you should hear the agreement and the oaths, which we swore to each other, Olympiodorus the defendant and I. If he consents then, let it be so, and you will hear the articles when he thinks proper: if he declines this course, will it not then be plain, men of the jury, that he is the most impudent of mankind, and that you ought not to give the slightest credit to a word that he utters?

But why am I thus earnest in argument? The defendant knows as well as I do, that he has sinned against me, that he has sinned against the gods, who witnessed the oath which he violates. But his mind is disordered, men of the jury; he has not his senses about him. What I am about to tell you, men of the jury, fills me with shame and grief; yet I am compelled to mention it, in order that you, with whom the verdict rests, may have all the circumstances before you when you come to consider what is the best way of dealing with this case. For what I am about to tell you the defendant has only himself to thank, as he has not chosen to settle our differences among relations, but resolved rather to brazen it out.

You must know then, men of the jury, that Olympiodorus

the defendant has never married a woman of Athenian birth according to your laws, and he has no children nor ever had any; but he keeps a mistress, whom he redeemed from servitude, and she it is who brings shame upon us all, and goads the defendant into acts of madness. For what else is it but madness, when he refuses to perform any part of his agreement, which was entered into with our mutual consent and confirmed by oath, and when I am striving not for my own private advantage only, but for her, to whom I am married, his sister both by the father's and the mother's side, and for his niece, my daughter? For they are wronged no less than I am, indeed far more. Are they not wronged? are they not shamefully treated? when they see the defendant's mistress arraying herself, without regard to decency, in jewels and fine clothes, making a splendid appearance in public, and exhibiting her vanities at our expense, while they themselves are too poor to procure such things?[1] Am I not correct in saying that their wrong is greater than mine? And is not Olympiodorus evidently mad and insane, to behave himself as he does? That he may not say, men of the jury, that I am making calumnious imputations for the sake of this cause, you shall hear the evidence of our common friends.

[*The deposition.*]

Such is the character which Olympiodorus bears. He is not only dishonest, but in the opinion of all his friends and acquaintances, judging from his course of life, he is touched with insanity. To use the language of our legislator Solon, he is deranged, (as never man was deranged before,) from being under the influence of a prostitute. The law of Solon declares, that all acts shall be null and void, which are done by any one under the influence of a woman; much more such a woman as that. Wisely has the legislator provided. And I now entreat you—and not I only, but also my wife, the sister of this Olympiodorus, and my daughter, the niece of this Olympiodorus—(imagine to yourselves, that they, as well as I, are now standing before you)—we all beseech and

[1] "Hinc illæ lachrymæ. Quis enim dubitet, matrem familias, cum marito quotidie expostulantem de concubinæ illius cultu vestituque, quem ipsa æquare non posset, magnas hâc in lite partes habuisse?" —Schäfer.

implore you, men of the jury, if possible, to prevail on Olympiodorus the defendant not to do us wrong; but, if you cannot prevail upon him, then we ask you to bear in mind the facts which have been laid before you, and give such verdict as you consider most just and righteous. If you act in this way, you will not only arrive at a just decision, but at one which is for the benefit of us all, and especially of Olympiodorus himself.

THE ORATION AGAINST TIMOTHEUS.

THE ARGUMENT.

THIS was an action of debt, brought by Apollodorus, son of Fasion the banker, against the celebrated general Timotheus. The plaintiff claims divers sums of money, amounting in the whole to 44 minas 38 drachms 2 obols, which he alleges to have been lent or paid for the defendant's use by Pasion at different times. On the death of Pasion, the right of action devolved upon his son, who commenced this suit about the year B.C. 359, fourteen or fifteen years after the first contraction of the debt.

The claim is composed of the following items:—1,351 drachms 2 obols for money borrowed by Timotheus in the year B.C. 374, when he was appointed to command the Athenian fleet against the Spartans—10 minas borrowed B.C. 373, to discharge a loan which he had contracted in Calauria in order to pay the Bœotian crews—one mina borrowed at the close of that year, when he had to entertain Jason and Alcetas, who came to Athens to intercede for him upon his trial; and also 337 drachms, the price of two silver plates which he had borrowed on the same occasion—1,750 drachms paid by Pasion B.C. 372 at the defendant's request for the freight of some timber which his agent brought from Macedonia, and which had been given him by king Amyntas.

These various debts were contracted by Timotheus under the pressure of his political necessities, and it will be convenient, if I briefly mention the historical events which are referred to in connexion with this case.

In the year B.C. 375 Timotheus was sent with a fleet of sixty galleys to cruise round Peloponnesus, at the request of the Thebans, who were then in alliance with Athens, and who were anxious to prevent the Spartans from invading Bœotia. He defeated the Spartan fleet, re-annexed Corcyra to his country, and formed an alliance with the Cephallenians, the Acarnanians, and Alcetas, king of Epirus. At the same time he was much embarrassed in his operations for want of the sinews of war, which were but scantily supplied by the Athenian treasury. A peace was then concluded between Athens and Sparta, but the war was soon afterwards renewed, B.C. 374, Timotheus having

stopped on his way home at Zacynthus and restored some exiles of the democratic party. He was then again despatched with a fleet to act against Mnasippus in Corcyra, but for want of supplies was compelled to cruise about in the Ægean, to raise both men and money. It was at this period, B.C. 373, that he formed an intimacy with Amyntas, king of Macedonia, who promised to supply him with timber for a house that he was building in Piræus. In consequence of these delays he was deposed from his command, and recalled to take his trial on charges preferred against him by Iphicrates and Callistratus. His friends, Jason of Pheræ and Alcetas of Epirus, came to Athens to exert their influence with the people on his behalf: and he was acquitted, though deprived of his office of general. At the close of the year he entered the service of Artaxerxes, and went to take the command against Nectanabis in Egypt. Before he left Athens on this expedition, he requested Pasion to pay for the freight of timber which he expected from Macedonia, and which arrived the following year, B.C. 372.

Between that time and the commencement of the plaintiff's action, Timotheus returned into favour with his countrymen, and commanded their forces with great success; the most signal of his achievements being the reduction of Samos, the capture of Sestos and Crithote, and the conquest of the Chalcidian towns. He became reconciled to his rival Iphicrates, and in the year B.C. 360 gave his daughter in marriage to Menestheus, the son of that general. B.C. 358 he made the famous speech, exhorting the Athenians to drive the Thebans out of Eubœa. B.C. 356 he commanded in the Social War with Iphicrates and Menestheus; and the following year he was brought to trial for his misconduct in the war, and sentenced to a fine of a hundred talents; which being unable to pay, he went into exile and died at Chalcis.

The high character borne by Timotheus, to which Demosthenes himself has amply testified in his public orations, has caused it to be doubted whether he was the author of the present speech, in which Apollodorus charges his adversary with dishonesty in seeking to escape from the payment of a just debt, and also with gross ingratitude to Pasion, who had lent him money in the times of his distress. Plutarch indeed ascribes the authorship to Demosthenes, and there is an obvious distinction between what the orator asserts when speaking in his own person, and what he might have written anonymously for his client. The authenticity of the speech has however been disputed on other grounds; viz. the poverty of the style, the multitude of useless repetitions, and the circumstance that Pasicles is produced as a witness, who could hardly have been born at the time of the transactions which he is called to speak to. Harpocration first suggested a doubt upon the subject; Böckh, Bekker, and Schäfer have not hesitated to pronounce the speech to be spurious. Pabst inclines to the same opinion. On the other hand, Reiske, Clinton, and A. G. Becker believe it to be genuine.

DON'T let any of you think it strange, men of the jury, that Timotheus should have owed this money to my father,

for which the present action is brought against him. When I have called to your mind the occasion upon which the loan was contracted, and the events which occurred at that time, and the great difficulties in which the defendant was involved, you will be of opinion that my father acted most generously to him, and that Timotheus, for what he has done, is the most dishonest as well as the most ungrateful of men. For, after having obtained all that he asked from my father, and received money from the bank, at a time when he was in the greatest distress, and when his life was in danger, he has not only made us no requital, but seeks even to defraud me of the money which he borrowed. If things had gone wrong with the defendant, my father's money was lost; for he lent it without taking security, and without witnesses: if he got off, it rested with himself to choose his time of payment when he had the means. However, men of the jury, my father thought less of his own pecuniary advantage, than of helping Timotheus in his distress, and doing him the service which he asked. My father certainly believed, men of the jury, that, if Timotheus got safe out of his troubles and returned from the Persian king's service to Athens, when Timotheus was in better circumstances, he should not only get his money back, but that he would have influence enough with Timotheus to obtain any favour that he might ask. Since however it has not turned out as my father expected—since the loan which Timotheus asked of my father, and which was so kindly advanced to him from the bank, he resolves, now that my father is dead, not to pay without legal and hostile proceedings and strict proof of his liability, but rather, if by an artful speech he can persuade you that he is not liable, to cheat me out of the money—I deem it necessary to explain all the circumstances to you from the beginning, the several loans which were contracted, their respective purposes, and the date of each. Don't be surprised that I should have accurate information upon the subject: for it is the custom with bankers, to make memoranda of the sums which they advance, and the purposes for which they are wanted, and of the sums which their customers deposit, so that, by knowing what has been received and what deposited, they may be able to balance their accounts.

In the archonship of Socratidas, in the month of Muny-

chion, when Timotheus the defendant was about to sail on his second[1] expedition, and shortly before he embarked in the Piræus, being in want of money, he came up to my father in the harbour, and requested a loan of thirteen hundred and fifty-one drachms two obols; that was the exact sum he said he wanted; and he requested my father to give it to Antimachus his treasurer, who managed everything for him at that time. It was Timotheus who borrowed the money from my father, and requested him to give it to Antimachus his treasurer; but the person who received the money from Phormio at the bank was Autonomus, who acted during all that period as secretary to Antimachus. Accordingly, when this money, the thirteen hundred and fifty-one drachms two obols, was paid out of the bank, my father debited Timotheus with it, who asked him to lend it; but took a memorandum of the person to whom Timotheus ordered the money to be paid, namely Antimachus, and also of the person whom Antimachus sent with his servant to the bank to receive the cash, namely Autonomus. This was the first debt which Timotheus contracted, for money borrowed on the eve of his second expedition as general.

The next was after you had deposed him from his command for not sailing round Peloponnesus. He had been brought for trial before the popular assembly upon a charge of a most serious nature; his prosecutors were Callistratus and Iphicrates, men of influence both as orators and politicians, and they produced such an effect on your minds, both they and their supporters, by their accusation of the defendant, that you condemned and put to death his treasurer and confidential agent, Antimachus, and also confiscated his property; Timotheus himself, at the intercession of all his friends and connexions, and on the petition also of Alcetas and Jason, your allies, you were induced reluctantly to pardon, though you removed him from his office of general. Such a charge was hanging over him, and he was in great distress for money; for all his property was in mortgage; tablets were fixed on it, and other persons had the dominion; his land in the plain was made over as security to the son of Eumelidas, and

[1] "Respicit hoc ad priorem ejus ἔκπλουν, qui incidit in annum Olymp. 101, 1, quo Timotheus Lacedæmonios ad Leucada prælio navali vicit." —Reiske.

the rest of his estate was mortgaged to the sixty trierarchs who went out with him for seven minas each, which he as commander had forced them to distribute among their respective crews for maintenance: after he was deposed, he stated in the account which he rendered that he had himself paid those seven minas for the ships out of the military fund, and so, fearing that the trierarchs would give evidence against him and he should be convicted of falsehood, he privately borrows the seven minas from each of them and gives them a mortgage on his estate, though now of that very money he seeks to deprive them, and has removed the tablets. He was in every way embarrassed, and his life was in the utmost peril on account of the misfortunes which had fallen upon the country, the army being in a state of dissolution in Calauria for want of pay, and the allies round Peloponnesus being blockaded by the Lacedæmonians: Iphicrates and Callistratus accused him as being the author of the calamity; those who came from the army also were reporting to the assembly its destitute and wretched condition, and individuals received intelligence of the state of things by letters from their friends and relations. Call to mind, every one of you, what your feelings were towards him at the time, when you heard these news in the assembly; for what I am now telling you must be in your remembrance. The defendant, while he was yet in Calauria, and was on the eve of returning home to take his trial, borrows from Antiphanes of Lampra, whom Philip the shipowner took out with him as treasurer, a sum of a thousand drachms, to distribute among the Bœotian trierarchs, in order that they might stay there till after his trial, and for fear, if the Bœotian fleet should be broken up and the troops disbanded before the trial, your irritation against him might be increased. For, although our countrymen endured their privations and remained with the armament, the Bœotians said they would not stay unless their daily rations were provided. The defendant, in this emergency, borrows the thousand drachms from Antiphanes, who was then out with Philip the shipowner as his treasurer, and he gives that sum to the Bœotian admiral. Upon his arrival at Athens, Philip and Antiphanes both asked him to pay the thousand drachms which he had borrowed in Calauria, and were angry at not getting speedy payment. Timotheus, fearing

his enemies might be informed, that the thousand drachms, which he in his account stated he had paid for the Bœotian fleet out of the military fund, had been lent by Philip, and that Philip could not get them back, and fearing that Philip would appear as a witness against him on his trial, came to my father and requested him to discharge Philip, to lend him (that is) the thousand drachms to pay Philip. My father then, seeing the extreme peril and distress of the defendant, and having compassion on him, took Philip to the bank, and desired Phormio, who was then the cashier, to pay him a thousand drachms, and to debit Timotheus with the amount.

To prove the truth of these statements, I will produce Phormio, who paid over the money, as a witness; but just let me explain to you about the other loan, that by the same deposition you may learn the whole amount of the debt, and so convince yourselves that I am speaking the truth. I will also call Antiphanes before you, who lent this sum of a thousand drachms to the defendant in Calauria, and who was present when Philip received payment of the money from my father here. He prevented me by a trick from putting a deposition in the box before the arbitrator; for he kept saying that he would give evidence for me by the day of giving the award; and when the day arrived, although he was summoned from his house, (for he was not to be seen,) he failed to attend as a witness at the instigation of the defendant. Upon my depositing the drachm for default of attendance as a witness,[1] the arbitrator did not find an award against the defendant, but found in his favour, and left when it was late in the day. And now I have commenced a private action for damage against Antiphanes, because he neither gave evidence nor took an oath of disclaimer according to law. And I require him to get up and say before you on his oath, first, whether he lent Timotheus a thousand drachms in Calauria; secondly, whether Philip received payment of that money here from my father. Timotheus himself indeed almost confessed before the arbitrator, that my father paid Philip the thousand drachms; only he says that my father did not lend the money to him (the defendant), but to the

[1] "Wahrscheinlich wurde diese drachme für die Eintragung der Beschwerde gegen den Zeugen entrichtet. Vergl. Platner, 222."—Pabst's note.

Bœotian admiral, and he says that the Bœotian pledged some copper for that money. That this statement is untrue—that Timotheus himself borrowed the money and was endeavouring to avoid payment—I will show you, when I have gone through the particulars of his other debts.

Alcetas and Jason came in the month of Mæmacterion, in the archonship of Asteius, to visit the defendant and give him their support upon his trial; it was evening-time when they arrived at his house in Piræus in the Hippodamea,[1] and he, not having the means to entertain them properly, sent Æschrion, his lackey, to my father, to beg the loan of some bed-covers and cloaks and two silver cups, and to borrow a mina in silver. My father, hearing from Æschrion what persons had arrived, and the urgent occasion for which he asked the favour, and the objects for which they had come, lent him the articles which were required, and also the money which he asked to borrow. After the acquittal of the defendant upon the criminal charge, he was for some time in great want of money both for his private expenses and for the public taxes which he had to pay; and in consequence of this my father did not venture to ask for payment very early; for, while he never imagined that Timotheus would neglect to reimburse him when he had the means, he thought it would be impossible to recover the debt from him while he was without means. After the departure of Alcetas and Jason, the defendant's servant, Æschrion, brought back again the bed-covers and the cloaks, but did not bring back the two plates, which he had begged the loan of at the same time when he borrowed the bed-covers and the mina in silver, upon the arrival of Alcetas and Jason at the defendant's house.

When Timotheus was about to quit the country and go into the service of the Persian king, (having obtained leave to go out as the king's general to conduct the Ægyptian war, in order that he might not at his audit here be called to an account for his military administration,) he sent for my father to the Paralium,[2] thanked him for former favours,

1 The market-place in Piræus, so called from the architect Hippodamus, who laid out the Piræus into streets, and converted it into a handsome town.

2 Pabst — "den Paralischen Platz." According to Harpocration there was an Athenian hero, Paralus.

and introducing to him Philondas, a Megarian by birth, who resided at Athens, and who at that time enjoyed the confidence of the defendant and was engaged in his service, he requested my father, when Philondas (whom he then introduced) should return from Macedonia with some timber given to the defendant by Amyntas, to supply him with the freight for the timber, and let him carry the timber up to his (the defendant's) house in Piræus, as the timber belonged to him (the defendant). And at the time that he made this request, he used language with which his present acts are not very consistent: for he said, even if he should not obtain what he asked of my father, he should not be angry with him as another person so refused might be, but he should requite him on the first opportunity for the services which he had already done him at his request. My father, on hearing this, was pleased at his words, commended him for his grateful feelings, and promised to do what he asked. After that the defendant set sail and went to join the Persian king's commanders; and Philondas, whom he had introduced to my father, and to whom he had requested him to give the freight upon his arrival with the timber, set out on his journey to Macedonia. The date of this transaction was about the month of Thargelion, in the archonship of Asteius. In the following year Philondas arrived at Athens with the timber from Macedonia, while Timotheus was absent in the service of the king. He came to my father and requested him to give him the freight of the timber, that he might settle with the shipowner, as my father had asked him to do at the time of the introduction of Philondas on the eve of his voyage. My father then took him to the bank, and desired Phormio to give him the freight of the timber, a sum of seventeen hundred and fifty drachms. And Phormio counted out the money; and he debited Timotheus with it; for he it was who asked my father to supply the freight of the timber, and to him it belonged: and he made memoranda of the occasion for which the money was received, and the name of the person who received it. The date of this transaction was the archonship of Alcisthenes, the year after the defendant set sail to join the king.

About the same time also Timosthenes of Ægilia returned home from a voyage which he had made on some private

mercantile adventure. Timosthenes, being a friend and partner in trade of Phormio, gave to Phormio at the time of his departure divers articles of property to keep for him, and (among others) two plates of Lycian workmanship. It happened by chance that the boy, not knowing that these plates belonged to another person, gave them to Æschrion, the defendant's lackey, when he was sent by the defendant to my father and asked for the loan of the bed-covers and the cloaks and borrowed the mina in silver, at the time when Alcetas and Jason came to the defendant's house. Timosthenes upon his arrival, (the defendant being still abroad in the king's service,) asked Phormio to return him the plates; and my father persuaded him to accept the value of the plates, as much as their weight amounted to, which was two hundred and thirty-seven drachms. And he paid Timosthenes the value of the plates, and he debited the defendant with the sum which he paid Timosthenes for them, adding it to the rest of the debt which the defendant owed him. To prove the truth of all these statements, he shall read you the evidence in the depositions; first that of the servants in the bank, who paid out the money to the persons whom Timotheus directed it to be paid to, and then that of the person who received the price of the plates.

[*The depositions.*]

That nothing which I have stated is untrue, you have learned from the depositions. He shall now read you one, proving an acknowledgment by the defendant himself, that the timber imported by Philondas was carried up to his house in Piræus.

[*The deposition.*]

That the timber which Philondas brought belonged to the defendant, he has proved for me, as you see, by his own testimony; for he admitted before the arbitrator, that it was carried up to his house in Piræus, as those who heard him have testified to you. I will endeavour also to show you by circumstantial proof, that what I say is true. Do you imagine, men of the jury, that, if the timber had not been the property of Timotheus, and he had not introduced Philondas at the time when he was about setting sail to join the king's generals, and requested my father to furnish the

freight, my father would ever have allowed Philondas to carry the timber away from the harbour, supposing the timber to have been mortgaged to him for the freight, and would not rather have placed one of his servants to keep possession and to receive the price of what was sold from time to time until he got his money back; assuming, that the timber belonged to Philondas and was imported in the way of trade? And besides this—does any man here think it likely, that, unless Timotheus had requested my father to supply the freight of the timber which had been given him by Amyntas, my father would have trusted Philondas, and suffered him to carry the timber from the harbour up to the defendant's house? Again, how is it possible, if Philondas (as the defendant says) imported the timber in the way of trade, that the defendant on his return home should have used the timber for the building of his house? And consider this too—many respectable citizens were friends of Timotheus and looked after his affairs, while he was abroad in the king's service. Not one of them has ventured to appear for him and give evidence, either that Philondas did not receive the freight of the timber from the bank, or that after receiving he paid it; nor yet, that any one of them discharged the freight for the timber which Philondas brought, and which had been given to the defendant by Amyntas: for they deem it of greater importance to themselves, to maintain the character of good and honest men, than to gratify Timotheus by giving false testimony. They declared however that they would not give evidence of the truth against him, as he was their friend. Since then none of his intimate friends, who looked after his affairs when he was abroad in the king's service, has ventured to bear witness for him, either that Philondas did not receive the freight of the timber from the bank, or that any of them paid it, is it not reasonable that you should believe the truth of my statements? He won't venture either to say this, that any one else but my father paid the freight for the timber which Philondas brought. Should he make such an assertion, require him to produce before you the deposition of the person who paid the freight for the timber. It is admitted that he himself was abroad in the king's service; and as to Philondas, whom he sent to fetch the timber and whom he

introduced to my father—you know, Timotheus, you found him dead, when you returned from the service of the king. Some other then of your friends and acquaintances, whom you left to look after your affairs when you were going abroad, must know from what source Philondas got the freight of the timber to pay the shipowner, if you deny that you introduced my father to Philondas, or that he received the freight of the timber from my father. But you cannot produce a deposition from any of your friends, to show that the freight of the timber was not received from the bank while you were abroad; and one of two things follows—either you are not on terms with any of your friends, and have no confidence in any of those who belong to you, or you know perfectly well that Philondas did receive the freight of the timber from my father, to whom you introduced him when you were about to sail from Athens, and you are now deliberately endeavouring to cheat me out of this debt. I, men of the jury, have already produced before you the deposition of the servants of the bank, who paid over the money to the persons to whom Timotheus desired them; but in addition to this, I was willing to confirm the evidence by an oath, which he shall read you.

[*The oath.*]

Not only did my father write down the debts which he left, men of the jury, but he stated to me and to my brother in his last illness each particular sum that was owing to him, and the name of the debtor, and the purpose for which the money was received. To prove the truth of this statement, read, if you please, my brother's deposition.

[*The deposition.*]

That Timotheus was left by my father owing us this money, for which I sue him, and that it has fallen to my share in the succession, I have proved both by the evidence of my brother and by that of Phormio, who gave the money; and I myself was willing to confirm the statement by an oath. The defendant gave me a challenge before the arbitrator, requesting me to bring the accounts from the bank and asking for copies, and he sent Phrasierides to the bank; I brought out the accounts to this Phrasierides and allowed him to examine them and to have the entries of his

own debt copied from the book. To prove that he admitted having received copies, read me the deposition.

[*The deposition.*]

I brought the accounts to the arbitrator; Phormio and Euphræus, who had paid the money to persons whom he named to receive it, attended and proved the case against him, showing the date of each loan which he contracted, the purpose for which he received the money, and that to which he applied it. The defendant said, with respect to the thirteen hundred and fifty-one drachms two obols, which he first borrowed in the month of Munychion in the archonship of Socratidas, when he was on the eve of his voyage, and which he desired to be given to his treasurer Antimachus, that my father lent that sum to Antimachus on his private account, and that he (Timotheus) did not receive it. In support of this statement he has produced no witness, but makes the assertion, that it may not be thought that he is cheating us out of the money, if it was borrowed by Antimachus. Now, men of the jury, I will give you a pretty good proof, that my father did not lend this money to Antimachus, but to Timotheus when on the eve of his departure. Why, which do you think would have been the easier course for my father—to prefer his petition, when the property of Antimachus was confiscated, and claim a charge on the estate to this amount,[1] supposing him to have lent to Antimachus—or to wait until he had a chance of getting it from Timotheus when in better circumstances, Timotheus having very little hope of his deliverance at that time? Doubtless, had he made this claim, he would have had no difficulty in finding the deposit, nor would he have been distrusted by you; for you are all aware, that my father did not desire to rob the public, but used cheerfully to spend his own money in your service, whenever you required him; and besides, Callistratus, who sold the effects of Antimachus, was on friendly terms with my father, and therefore was not likely to oppose him. What object then could my father have had in leaving Timotheus in his books as our debtor, if he really

[1] See Volume iii. Appendix viii. page 341; and the Archæological Dictionary, titles *Paracatabole* and *Syndicus*.

did not owe this money, rather than preferring his petition and getting it out of the confiscated estate of Antimachus?

With respect to the thousand drachms, which he borrowed from Antiphanes in Calauria, to distribute among the Bœotian commanders, when he was about to return home to take his trial, and which he paid to Philip the shipowner here after getting the money from my father, he says that the Bœotian admiral borrowed that sum and gave some copper to my father in pledge for it. That this is untrue, I will give you a good proof. In the first place, it is shown that Timotheus borrowed the thousand drachms in Calauria, and not the Bœotian admiral; secondly, that Philip demanded the thousand drachms here from Timotheus, and not from the Bœotian admiral, and that Timotheus paid them, and not the Bœotian admiral: for it was proper that the Bœotian admiral should receive from Timotheus the maintenance for his crews, as the pay was supplied for the forces out of a common contribution, and you, Timotheus, collected all the money from the allies, and you were bound to render an account thereof. And again, in the event of the Bœotian fleet being broken up and the troops disbanded, the Bœotian admiral was in no danger from the Athenians, nor was any trial hanging over him: but you were in the greatest peril, and in the extremity of your alarm you thought it would be a great help to your defence, if the Bœotian triremes stayed with the fleet until after the trial. Besides—From what motive of friendship would my father ever have lent the thousand drachms to the Bœotian admiral, with whom he had no acquaintance? But he says, my father took some copper in pledge. How much copper? of what country was it? and how did the Bœotian admiral get it? Was it imported in the way of trade or obtained from prisoners? and who were the persons who brought the copper to my father? were they hired men or slaves? and which of our slaves was it who received the copper? If slaves brought it, he ought to have delivered them up; if hired men, he ought to have demanded that slave of ours who received and weighed the copper to be delivered up: for of course neither the party taking the pledge would receive it, nor the party giving deliver it, without weighing; nor again was my father likely to weigh or carry the copper himself, as he had slaves who used to

receive the articles given in pledge for money lent. I wonder too for what possible reason the Bœotian admiral should have pledged the copper to my father, if he owed a thousand drachms to Philip. Was it that Philip would not gladly have received interest, if his money was lent safely and on security? or was it that Philip had no money? It could hardly be that. Why then should the Bœotian admiral have asked my father to lend him the thousand drachms and pay Philip, rather than give the copper in pledge to Philip? The truth is, men of the jury—neither was the copper pledged, nor did the Bœotian admiral borrow the thousand drachms of my father, but Timotheus the defendant borrowed them, being at the time in great distress; the occasion for which he employed the money I have already told you. Instead of showing gratitude for the confidence reposed in him and the loan advanced by my father, he thinks proper to cheat us, if possible, out of the principal debt.

With respect to the plates and the mina in silver, which he borrowed of my father when he sent his servant Æschrion to him in the night-time, I asked him before the arbitrator if Æschrion was still a slave, and I required that he should be assayed at the rack. Timotheus replied that he was free; so I gave up the thought of demanding him for torture, but required the defendant to put in a deposition of Æschrion, as being a freeman. Timotheus would neither produce a deposition, nor deliver up Æschrion as a slave and have proof by the torture; for he was afraid that, if he produced a deposition of Æschrion as a freeman, I should proceed against him for false testimony, and after convicting him I should proceed against the defendant for subornation according to law; if again he delivered him up to the torture, he was afraid that Æschrion would give evidence against him. Surely it was a fine opportunity for him, if he had no witnesses to produce concerning the other receipts of money, to prove at least out of the mouth of Æschrion, that the plates and the mina in silver were not received, and that Æschrion was not sent by him to my father, and to use this as an argument to you that the rest of my claims against him are false, when his slave whom I allege to have received the plates and the mina in silver is proved by the torture not to have received them. If this then would have been a strong piece of evidence to

you in the defendant's favour, that he offered to deliver up Æschrion, whom I allege to have been sent by the defendant and to have received the plates from my father and to have borrowed the mina in silver, let it be regarded as a proof in my favour, that, knowing the truth of my claim, he dares not deliver Æschrion to be examined.

He will set up as a defence however, that he was entered in the banking book in the archonship of Alcisthenes as having received the freight of the timber and the price of the plates, which my father paid for him to Timosthenes, and that he was not at that time in the country, but was in the king's service. Upon this point I wish to give you accurate information, that you may perfectly understand how the banking accounts are made out. Timotheus in the month of Thargelion in the archonship of Asteius, when he was about setting sail to join the king, introduced Philondas to my father. In the following year, in the archonship of Alcisthenes, Philondas arrives with the timber from Macedonia, and he received the freight of the timber from my father, while Timotheus was abroad in the king's service. Accordingly, they entered the defendant in the book as debtor, when they paid the money from the bank, not when he introduced Philondas to my father at Athens. For, when he introduced him, the timber had not yet come, but Philondas had to go on his journey to fetch it; and, when he arrived with the timber, the defendant was abroad, and Philondas received the freight of the timber, according to the defendant's request, and the timber was carried up to the defendant's house in Piræus. That Timotheus was badly off when he sailed from Athens, is known, without my mentioning it, to some of you, who took mortgages on his estate, and whom he is now trying to cheat out of their money. To prove to you that he contracted debts to some of our people without a pledge, not having any equivalent security to give, read me the deposition.

[*The deposition.*]

With respect to the plates, which Æschrion his lackey begged the loan of in the month of Mæmacterion in the archonship of Asteius, when Timotheus was at Athens, and when he received Alcetas and Jason as his guests, and he

value of which he was debited with in the archonship of Alcisthenes—remember that my father for some time supposed that he would bring back the plates that he borrowed; but when Timotheus was gone without having brought back the plates, when the plates of Timosthenes were no longer in the custody of Phormio. and the owner came and demanded their return, then my father paid the price of the plates to Timosthenes, and added this to the rest of the defendant's debt in his book. Should he therefore adopt this line of defence, that he was not in the country at the date of the entry which appears against him for the value of the plates, reply to him thus—"You received them at Athens; but, as you did not bring them back, and as you were abroad. and as the plates which the depositor demanded were not in existence, you were debited with the value of the plates when the value was paid." Oh but, perhaps he will say, my father ought to have asked him to return the plates. But my father saw that you were in bad circumstances, Timotheus. And he trusted you with respect to the rest of your debt, and thought that, after your return to Athens, you would pay him when your circumstances improved. Was he likely then to distrust you in the affair of the plates? He promised at your request, when you were on the eve of sailing to join the king, that he would provide the freight of the timber. Was he likely then to distrust you about a pair of plates? He did not ask you to pay the rest of your debt, seeing that you were in distress. Was he likely to trouble you about the plates?

I wish to say a word about the challenge to an oath, which I gave the defendant and he gave me. For, after I had put an oath into the evidence box, he also proposed to take an oath and discharge himself. Really, if I had not known him to have sworn many solemn oaths both to states and to individuals, and to have committed flagrant perjury, I should have allowed him to take the oath: but when I have witnesses to prove that his nominees received the money from the bank, and strong circumstantial evidence besides, I should consider it monstrous to let a man swear in his own discharge, who would not only have no regard to the sanctity of an oath, but who has not spared even the temples when he sought to gratify his avarice. It would be a long business to

specify the various perjuries which he has committed without the least scruple: I will remind you only of those which are the most flagrant, and which you are acquainted with. You remember, he swore in the assembly that he would indict Iphicrates for usurpation of civic rights, and, if he broke that vow, he imprecated destruction upon his own head, and devoted his property to religious uses. Notwithstanding this solemn promise on oath in the popular assembly, a short time afterwards, for the sake of his own interests, he gave his daughter in marriage to the son of Iphicrates. When he was not ashamed to break his promise to you, though there is a law, that, if a man deceives the people by a promise, he shall be liable to imprisonment for it—when, after swearing and imprecating destruction upon himself, he did not fear the Gods, by whom he swore falsely—should I be prudent to let him take an oath in his own discharge? It is not so very long ago either, since he solemnly protested in the assembly that he had not sufficient provision for his old age—though he possesses so large a property—such is the insatiable covetousness of his disposition. I should be glad however to ask you this question—whether you feel wrath against bankers who have become bankrupt. If you feel a just resentment against them for the injury which they do you, ought you not to support those bankers who do no injury? It is indeed through men like the defendant that banks are broken; because, when they are in distress, they borrow money and expect to obtain credit on account of their character, but, when they have retrieved their fortunes, instead of paying, they rob their creditors.

You see, men of the jury; what I was able to call witnesses to prove, they have proved for me: and I have shown you besides by circumstantial evidence, that Timotheus owes the money to my father's estate. I pray you therefore to assist me in recovering what my father left me from his debtors.

THE ORATION AGAINST POLYCLES.

THE ARGUMENT.

Apollodorus, the son of Pasion, having been appointed trierarch, entered upon the command of his ship, equipped it handsomely at his own expense, and went out with it on the public service to the Hellespont and various other places. Polycles, who had been appointed to succeed him at the end of his official year, did not join his ship till four months after the time, and, even when he had joined, did not immediately enter upon his duties: Apollodorus therefore was forced to remain in charge of the ship during all that period, and incurred extra expenses, which he was entitled by law to recover from his successor, and which he seeks to recover in the present action. It appears from the plaintiff's statement, that in the fitting out of his ship he had displayed an extraordinary liberality, and had given a higher rate of pay to the seamen than usual, in order to secure a good crew. This was laudable in itself, and very natural in the case of a newly created citizen, who wished to recommend himself to the favour of the Athenians; but it was made a ground of complaint by the defendant, and served him as a pretext for refusing to take to the ship's furniture, or to reimburse the plaintiff for his outlay.

The historical events referred to seem to fix the date of the plaintiff's expedition at about the year 362 B.C., and the action was probably brought about two years after. The speech is instructive on the subject of the trierarchy, and Böckh has made good use of it in his chapter thereupon in the fourth book of his Public Economy of Athens, from which the following extract is subjoined:

"The speech against Polycles, which belongs to Olymp. 104, 4, contains the best information concerning the services which were required by law at that time. There is not the slightest mention of any obligation to supply the vessel, but the trierarchs were only bound to launch it. The crew was appointed out of the township, but since a few only were obtained, and those insufficient, Apollodorus was glad to hire some sailors of his own: he also voluntarily paid them their wages, the generals having only given him provision-money, and two months' pay out of seventeen: he also subjected himself to many other voluntary expenses, such as having fresh seamen in different places: he also equipped the vessel himself; nor was he single in this respect, for others had likewise supplied the ship's furniture,

and let it to their successors: other trierarchs however at this period received their vessels ready equipped from the State; and in the oration concerning the crown of the trierarchy, which refers to the same form of this service, it is distinctly stated that the state equipped the ship, which is also evident from the fact that in Olymp. 105, 4, ship's furniture which had not been formerly paid for was claimed from the trierarchs. Apollodorus, having supplied the furniture of his own ship, might call upon his successor either to bring new with him, or to purchase the old from himself: with regard to the ship, there is nowhere any trace either of selling or letting, but Apollodorus only requires his successor to receive it from him according to law, in order that he might be at length relieved from his trierarchy, which he had already performed beyond the legal time. It is therefore hardly worth repeating, that at that time no charge but the repairing and maintenance of the ship and ship's furniture was imposed on the trierarchs by law, all other expenses being merely voluntary; although these were by no means trifling, as the State frequently furnished damaged ships, and on voyages, and particularly in battles, great losses were experienced. This Apollodorus, the son of Pasion, is a remarkable instance how harshly a man could be treated, if he was rich and ambitious, and moreover, like him, a new citizen: for his statements bear the stamp of truth in a greater degree than the assertion of Phormio, that Apollodorus in the offices of trierarch and choregus had not even expended as much from his own property as was required of himself with an income of twenty minas. Such extreme contradictions are to be found in the same orator, provided that both speeches are of his composition."

Causes like the present, men of the jury, demand the especial attention of those who have to decide them. For this contest does not concern me and Polycles only, but affects the interests of the whole commonwealth. In cases where the complaint is of a private nature, but the injury is public, you are imperatively called upon to hear and decide correctly. Had I sued Polycles upon a contract of any other kind, the contest would have been limited to Polycles and myself: but the question now before you concerns the succession to a ship, and extra trierarchal expenses of five months and six days: it is a question also, whether the laws are to be in force or not. It seems then to be necessary, that I should explain the whole case to you from the beginning. And by the gods I entreat you, men of the jury, not to suppose me guilty of loquacity, if I go at some length into the particulars of my expenses and proceedings, to show you that the several services which I rendered were seasonable and

important to the state. If any one can show that I am telling falsehoods, let him get up and confute what he alleges to be a misstatement while my water is running in the glass. But if my statements are true, and if no one but the defendant would think of contradicting them, I make one reasonable request to you all. You that were in the army and in the campaign with me, recall to your remembrance and give an account to those that sit by you of the zeal which I displayed, of the troubles and distresses that fell upon the state on that occasion, that it may appear from this evidence how I behave in the execution of your commands. You that remained at Athens, listen to me in silence, while I explain to you all the circumstances, and confirm every one of my assertions by the production of laws and decrees, those of the Council and those of the people, and the testimony of witnesses.

On the twenty-fourth day of the month Metageitnion, in the archonship of Molon, an assembly of the people was held; tidings of a very serious nature were reported to you, and you passed a vote that the trierarchs (of whom I was one) should launch their galleys. It cannot be necessary that I should explain to you the critical position in which our affairs stood at that time; for you yourselves must remember it. Tenos had been seized by Alexander, and its people reduced to slavery; Miltocythes had revolted from Cotys, and had sent ambassadors to negotiate an alliance, requesting you to send troops to his assistance, and offering to restore the Chersonese: the Proconnesians, your allies, were petitioning you in the assembly for assistance, stating that the Cyzicenes were attacking them by sea and land, and imploring you not to allow them to perish: again, the merchants and the ship-owners were about sailing out of the Euxine, and the Byzantines and Chalcedonians and Cyzicenes were detaining their vessels on account of the scarcity of corn in their own country. When you heard these tidings in the assembly from the ambassadors and their supporters, and when you saw that the price of corn was rising in the Piræus, and that there was not very much to be bought, you passed a decree that the trierarchs should launch their galleys and bring them up to the pier, and that the councillors and the demarchs should make out lists of the townsmen and returns of the sailors, and that the armament should be shipped off speedily

and succours sent to the various places. And the decree of Aristophon, which I am about to read, was passed.

[*The decree.*]

You have heard the decree, men of the jury. When I found that the sailors put on the roll by the townsmen did not make their appearance, except a few, who were incapable, I dismissed them, and, having mortgaged my estate and borrowed money, I was the first to man my ship, hiring sailors of the best possible quality, by giving large bounties and payments in advance to each. I also furnished my ship with tackle entirely of my own, without taking any of the public stock; I fitted it out most handsomely, and made a more splendid show than any of the trierarchs. I hired the best rowers that could be procured. And not only did I defray all these heavy trierarchal expenses, men of the jury; but I also paid in advance a considerable share of the taxes which you ordered to be levied for the expedition. You had resolved that the council, on behalf of the different townships, should return the names of those who were to pay taxes in advance, whether members of the townships or persons possessing property in them; and my name was returned in three townships, as my property was notorious. I did not seek to excuse myself, either on the ground that I was a trierarch and could not defray two public charges, or that the laws did not permit such a thing, but I was the first to pay my taxes in advance. And I have never recovered the advances, because at the time I was abroad in your service as trierarch, and afterwards, when I returned, I found that the money had already been got in from the solvent parties by others, and the insolvent ones only were left.

To satisfy you of the truth of these statements, he shall read you the depositions of the persons who then collected the war-supplies, and those of the clearing officers, and the account of the pay which I disbursed every month for the rowers and the marines, receiving only provision-money from the generals, except pay for two months only in the space of a year and five months; and also of the seamen who were hired, and how much money each of them received. From this you will see how zealous I was in your service and why the defendant was so unwilling to take the ship from me, when the term of my trierarchy had expired.

[*Depositions.*]

That the statements which I have made to you are not incorrect, you have learned from the reading of the depositions. That what I am about to state is true, you will all agree. It is admitted, that a ship is broken up[1] in two events, first, if no pay is given to the crew, and secondly, if she returns to the Piræus before her expedition is complete; for then there is a great deal of desertion, and the seamen that remain with her do not like to embark again, unless more money is given them to pay their household expenses. Both these things happened to me, men of the jury, and caused my trierarchy to be more costly. For, after I had been eight months at sea without receiving any pay from the general, I sailed home with the ambassadors because mine was the best sailing vessel. And again, when I had been ordered by the people to carry Meno the general to the Hellespont, to take the place of Autocles who had been deposed, I set sail in a hurry from Athens, and hired new sailors in lieu of those who had deserted me, offering them large bounties and payments in advance, and I gave to the original sailors who stayed with me something to leave for the maintenance of their household, in addition to what they had before; for I was aware of the pressing nature of their wants, although my own distress was such as, by Jupiter and Apollo, no one could believe, who had not actually traced the history of my affairs. I mortgaged my farm to Thrasylochus and Archenaus, and having borrowed thirty minas from them and distributed the money among the crew, I set sail, that no part of the people's orders might remain unexecuted, as far as it depended on me. And the people, when they heard what I had done, passed a vote of thanks, and invited me to dinner in the Prytaneum. To prove the truth of these statements, he shall read you the deposition which I have put in evidence, and the decree of the people.

[*The deposition. The decree.*]

After we had reached the Hellespont, and after the term of my trierarchy had expired, as no pay was given to the troops except for two months, and another general, Timo-

[1] Pabst—"unbrauchbar gemacht wird."

machus, had arrived, but without bringing any new naval commanders, many of my crew became disheartened and deserted the ship; some of them went off to the continent to take military service, some to the fleet of the Thasians and Maronites, allured by the offers of high pay and large bounties, and seeing that my means were exhausted, and that the state supplied scarcely anything, and our allies were needy, and our generals not to be relied upon; and many persons had deceived them by misrepresentations, and they knew also that the term of my trierarchy had expired, and that no preparations were made for returning home, and no successor in command had arrived, from whose liberality anything was to be expected. For, the more zealous I had been in manning my ship with good rowers, the greater was the desertion from me, and more than from the other captains. The others, if they could keep nothing else, kept the seamen who had been drawn from the civic roll, who stayed with them in expectation of returning home when the general discharged them: but my crew, relying upon their skill as able rowers, went off wherever they were likely to be re-engaged and get the highest pay, caring more for immediate gain than for the danger of their being captured by me at some future time. Under these circumstances, and as the general Timomachus also commanded me to sail to Hierum and convoy the corn, but yet supplied me with no pay for my ship, and intelligence was brought that the Byzantines and Chalcedonians were again laying an embargo on vessels and forcing them to unlade their corn, I borrowed fifteen minas at interest from Chæredemus of Anaphlystus, and eight hundred drachms from Nicippus the shipowner, who happened to be in Sestus, at maritime interest, twelve and a half per cent., on condition that I should pay him principal and interest if the vessel got safe to Athens:[1] I sent Euctemon, who commanded a fifty-oared vessel, to Lampsacus, giving him money and letters to friends of my father, and desired him to engage for me the best sailors that he possibly could: I stayed myself in Sestus, and gave the old sailors who stayed with me all the money

[1] I have followed Bekker's text in the translation of this negligently written, perhaps corrupt, passage. Böckh, in a note to the Public Economy of Athens, translation, vol. i. p. 180, has tried his hand at amendment.

that I had, since the term of my trierarchy had expired, and I got some other seamen at full pay, while the general was preparing for his expedition to Hierum. When Euctemon however had arrived from Lampsacus with the seamen whom he had engaged, and the general had given his order to set sail, it so happened that Euctemon was taken suddenly ill, and he was in a very precarious state: I therefore gave him his pay, with money for the voyage, and sent him home; then got another pentecontarch and went out myself to convoy the corn; and I remained there five and forty days, until the departure of the vessels from Pontus, after the setting of Arcturus. When I arrived at Sestus, I expected to return home, as the term of my trierarchy had expired, and I had served two months over the time, and no successor had come to take the command. But the general Timomachus, having received an embassy of Maronites, who requested him to convoy their corn-ships, ordered us trierarchs to take the ships in tow to Maronea, which was a long passage on the open sea. I have narrated all these events to you from the beginning, that you may see how much I have expended on my own account and how burdensome an office I have served, as well as the extra trierarchal expenses which I subsequently incurred on the defendant's behalf, as he had not joined his ship, and also all the dangers to which I was exposed from tempests and from the enemy. For, after the convoying of the vessels to Maronea and our arrival at Thasos, Timomachus came and undertook again, in conjunction with the Thasians, to convoy corn and a body of peltasts to Stryme, with the intention of taking possession of the place. The Maronites however drew up their ships in defence of the place, and offered battle; our troops were fatigued after their long voyage and towing of the vessels from Thasos to Stryme; it was stormy too and there was no haven, and no possibility of disembarking or getting our meal, as the land was our enemy's, and the wall was surrounded on all sides by bands of mercenaries and barbarians from the adjacent country; we were obliged therefore to cast anchor and remain out at sea and keep watch the whole night, without food or rest, for fear the fleet of the Maronites should make a night attack upon us. And besides, there were showers of rain and thunder and a violent hurricane,

as is common at that season of the year, (for it was just at the setting of the Pleiads;) therefore you may imagine, men of the jury, what despondency fell upon the troops, and what desertion there was again from me after this, when the old sailors were so distressed, and when they got so little, only what I could let them have out of the money that I borrowed, in addition to what they had had from me before; for the general did not allow them enough even for their daily subsistence. And now I had served three months over my time, and no one had come to take command of the ship, but I was engaging fresh seamen in lieu of those who had deserted, and borrowing money for that purpose.

My successor has less excuse than any other for not having joined his ship long before. For Euctemon the pentecontarch, after he had been sent home on account of illness from the Hellespont, on his arriving at Athens and being informed that Polycles had been appointed to succeed me, knowing that the period of my trierarchy had expired and that I was serving beyond the time, took with him my father-in-law Dinias and accosted Polycles on the exchange, and requested him to set sail and join his ship as soon as possible, as the expenses that were incurred day by day, in addition to the provision-money allowed for the ship by the general, were very heavy. And he told him all the particulars of the monthly pay which was given to the rowers and marines, as well to the seamen whom he had himself engaged at Lampsacus, as to those who subsequently came on board in place of the deserters, and also of the money which I had given to each of the old sailors at their request after the term of my trierarchy had expired, and all the daily expenditure upon the ship; with which he was well acquainted, for it was through him, as commander of the fifty-oar, that all the purchases and payments were made. And he told him about the ship's furniture, that it was my own, and that I had none of the public stock. "Therefore"—he said—"either resolve to make terms with him, or take out your own furniture with you. I think however"—added he—"that you won't disagree; for he owes money out there, which he'll be glad to pay out of the price of the furniture." Polycles, when he heard this from Euctemon and my father-in-law Dinias, made no answer to their proposal, but laughed

(they told me) and said—"The mouse is beginning to taste pitch: he wished to be an Athenian." However, as he paid no attention to what Euctemon and Dinias had said to him, Pythodorus of Acharnæ and Apollodorus of Leuconoe, friends and connexions of mine, went to him afterwards, and requested him to go off and join his ship as successor in the command; and they spoke to him about the ship's furniture, and stated that all I had was my own, and none of it was public property: "therefore"—they said—"if you are willing to take what he has, leave money here, and don't run the risk of carrying it abroad"—for they wished to redeem the farm, and pay Archenaus and Thrasylochus their thirty minas. With respect to the wear and tear of the furniture, they offered to draw up an agreement with him, and to become sureties for me, and guarantee him the usual terms between trierarchs and their successors.

To prove the truth of all these statements, he shall read you the evidence in the depositions.

[*Depositions.*]

I think then I shall be able to show you by many proofs, that Polycles neither originally[1] intended to receive the ship from me, nor, after he was compelled by you and your decree to go and join his ship, was he willing to take it as my successor. For, upon his arrival at Thasos, when I was holding the command in the fourth month after its expiration, I took witnesses with me, as many citizens as I could find, and also the marines and rowers, and in their presence I went up to him in the market-place in Thasos, and required him to receive the ship from me as successor in command, and to pay me what I had disbursed after the expiration of my term. I offered to cast it up item by item, while I had the witnesses to the expenditure by me, the sailors and rowers and marines, so that, if he disputed anything, I might prove it at once. For the account had been made out so accurately, that I had not only put down the disbursements themselves, but also the objects of them, and the nature of the services performed, and what the prices were, and of what country the coin was, and what the agio came to; so that I might be able to satisfy my successor, in case he thought that I was making any false

[1] *αὐτόθεν.* Pabst—"damals."

charge. And besides that, I was willing to confirm the truth of my account by an oath. Upon my giving him this challenge, he replied, that he paid no attention to what I was saying. While this was going on, there came a servant from the general, and ordered me to set sail; the order was given to me, and not the defendant, my successor, to whom the duty was then transferred; the reason I will explain to you in the course of my address. I thought proper at that time to get under weigh and sail where he ordered me. But when I had returned to Thasos, after towing the vessels to Stryme as the general commanded, I desired the sailors and rowers and marines to stay on board, I myself landed, and went to the house where the general Timomachus had put up, wishing in his presence again to deliver up my ship with her full crew to the defendant Polycles. I found the defendant there with Timomachus, and the trierarchs and their successors and some other of our countrymen; I went in, and at once in the presence of the general addressed Polycles, and called upon him to take the ship from me, and to reimburse me for the expenses of my overtime; and I asked him about the ship's furniture, whether he would take to it, or whether he had come with furniture of his own. Upon my challenging him in this way, he asked me why I was the only captain who had ship's furniture of my own, and whether the state was not aware that there were some persons able to provide furniture for their ships so as to dispense with aid from the public. "Or have you"—said he—"so far outstripped everybody in wealth, that you are the only captain who has furniture of his own and gilded ornaments? Who"—(said he)—"can endure your madness and extravagance, a crew corrupted and accustomed to receive large sums of money in advance, and to enjoy an exemption from the regular services of a ship and to take the pleasure of a bath, and rowers and marines rendered luxurious by getting full and first-rate wages? You"—he went on—"have been the teacher of bad practices in the army; it is partly owing to you, that the troops of the other captains become vicious, when they seek to have the same allowances as yours: you ought to have done the same as the other captains." Upon his saying this, I replied that I had forborne to take ship's furniture from the docks, because (said I) "you have made

it disreputable.[1] However, if you like, take this of mine; if you don't like it, provide furniture for yourself. With respect to the sailors and the rowers and marines, if you say they have been corrupted by me, take the galley from me, and get sailors and rowers and marines of your own, who will sail with you without receiving any pay. At all events, take the ship; for I am not bound to command it any longer; the term of my trierarchy is expired, and I have held it four months over the time." To these words of mine he replied, that his colleague in command had not joined the ship; "therefore"—said he—"I will not take the ship alone."

To prove the truth of these statements—that in the market-place he made the answer which I before mentioned, that he paid no attention to what I said—and that in the house where Timomachus lodged he said that he would not take the ship alone—he shall read you the evidence in the depositions.

[*Depositions.*]

After this, men of the jury, as the defendant neither chose to receive the ship from me, nor offered to pay the expenses of my overtime, and as the general ordered me to set sail, I went up to him in the harbour in Thasos in the presence of the general, when the galley was fully manned, and made a proposal not in accordance with my strict rights, but which was wrung from me by his injustice and was necessary under the circumstances—"As you say, Polycles, that your colleague in command has not arrived, I will get from him, if I am able, the expenses of my extra time of service, the four months; you take the ship from me, and first serve the trierarchy for your own term, six months; after that, if your colleague has arrived in the interval, you will deliver up the command to him, having discharged your own duties; if he has not arrived, you will suffer no hardship by serving the trierarchy two months over your time. It would indeed be strange—when I, after serving my own time and that of my colleague, have performed extra trierarchal duties for you and

[1] Auger:—"vous les avez mis en mauvais état."
Pabst:—"du sie unbrauchbar gemacht hast." In a note he says, it might be translated—"in schlimmen Ruf gebracht hast:—entweder durch voreiligen Tadel, oder weil Du es, vielleicht bei Verwaltung eines früheren Amtes im Seearsenale vernachlässigt hast."

your colleague—that you, who have defrayed no charge, should refuse to take your ship and serve your own time, or to reimburse me my expenses!" To this he replied, that what I said was all a fable: and the general desired me to go on board my ship and put to sea with him. To prove that he made this reply, read me the deposition.

[*The deposition.*]

I wish now to mention a circumstance, to prove to you how flagrant is the injustice which has been done me. Mnesilochus of Perithoidæ and Phrasierides of Anaphlystus were about the same time appointed the successors to Hagnias and Praxicles. Phrasierides not having joined his ship, Mnesilochus went to Thasos and received the galley from Hagnias, and paid to Hagnias, under an arrangement, the trierarchal expenses which he had incurred on their behalf after his time, and hired the ship's furniture from Hagnias, and took the command in his own person. Afterwards there came people from Phrasierides, who paid his share of the expenses to Mnesilochus, and for the remainder of the time contributed whatever he required for the charges of the ship. Please to read the deposition which proves these facts.

[*The deposition.*]

Perhaps, men of the jury, you are curious to hear what the general could mean by not compelling Polycles to take the ship from me, when he had joined it as my successor, the laws being so imperative on the subject. The cause of this you shall be fully informed of. Timomachus, men of the jury, in the first place, desired to have the galley in proper trim for everything. He knew however, that the defendant, if he took the command, would manage it badly; he would neither defray the necessary charges,[1] nor make use of the rowers and marines, for none of them would stay with him. He knew again, if he ordered him to sail without giving him money, instead of obeying him and putting to sea as I should do, he would only give him annoyance. And besides this, he borrows from him thirty minas, upon the understanding that he should not compel him to take the ship.

But what most irritated Timomachus against me, what caused him to ill-treat me and refuse on every occasion to

[1] Pabst:—"den aufwand für das Schiff machen."

hear a word that I had to say, I will fully explain to you, to convince you that I paid less regard at that time to my own comfort and the general's power than to the people of Athens and the laws, and that I submitted to injury and insult, which was far more grievous to me than pecuniary loss. While the fleet was lying idle at Thasos, there came an express-boat from Methone in Macedonia to Thasos, bringing a man with letters from Callistratus to Timomachus, which, as I was afterwards informed, contained a request to send off the swiftest galley that he had to bring him to the general. Accordingly the very next day, early in the morning, an officer came and ordered me to summon my crew to the ship. As soon as it was manned, Callippus, the son of Philo of Aixone, comes on board, and directs the pilot to steer for Macedonia. After we had reached a certain place on the opposite coast, an emporium of the Thasians, we landed and were taking our dinner, when one of the sailors, Callicles, the son of Epitrephes of Thria, came up to me and said, that he wanted to speak to me about something which concerned myself. I requested him to proceed. He said that he wished to show his gratitude to me in any way that he could, for what I had given him in his distress; and—"do you know," he added, "for what purpose you are making this voyage, and where you are going?" I replied that I did not know. "Then"—said he—"I will tell you; for you ought to be informed, that you may know how to act. You are going" —said he—"to bring an exile, whom the Athenians have twice sentenced to death, I mean Callistratus, from Methone to Thasos, to his son-in-law Timomachus. I have learned this," said he, "from the servants of Callippus. Now, if you are wise, you will not permit any exile to come on board your ship; for it is prohibited by the laws." After hearing this from Callicles, I went to Callippus and asked him for what place he was steering, and whom he was going after. He laughed me to scorn and threatened me in a manner which you will understand, (for you have some experience of the temper of Callippus:) I addressed him thus—"I am told that you are making a voyage to fetch Callistratus. Now I will bring no exile, nor will I go to fetch him; for the laws forbid to harbour any exile, and make the person who does harbour exiles amenable to the like punishment. I shall

therefore return immediately to the general in Thasos." And when the sailors went on board, I told the pilot to steer back for Thasos. Callippus opposed me, and desired him to steer for Macedonia, as the general had commanded; but Posidippus the pilot replied, that I was captain of the ship and the responsible party, and he received his pay from me, so he should sail where I desired him, to Thasos and the general. Upon our reaching Thasos the following day, Timomachus sends for me to his lodging outside the city wall. I, fearing that I should be put under arrest upon the complaint of Callippus, did not wait upon him in person, but told the officer that, if he wanted to speak with me, I should be in the market-place; and I sent my servant with him, that, in case the general had any orders to give me, he might hear and report them to me. It was for these reasons which I have stated to you, men of the jury, that Timomachus did not compel the defendant to take the ship; and also, because he wished to have the ship for his own use in the best sailing condition. He persuaded Thrasylochus of Anagyrus, whose galley he was aboard of, to let his trierarchy to Callippus, in order that Callippus, having absolute control of the ship, might carry Callistratus round the coast; he himself came on board of my ship, and sailed round from place to place, until he arrived in the Hellespont.

When he had no longer any use for ships of war, he put Lycinus of Pallene as admiral on board my ship, and having ordered him to give money to the seamen every day, desired me to sail straight home. On our voyage home we stopped at Tenedos: Lycinus, notwithstanding his commission from Timomachus, was giving no provision-money to the sailors; he said he had none to give, but should get some from Mytilene; and the troops had no means to purchase provisions, and without food would not have been able to row: so I, again taking some of our countrymen with me as witnesses, went to Polycles the defendant in Tenedos, and requested him to take the ship as my successor in command, and to reimburse me what I had expended on his behalf while remaining in command after my time. My object was to deprive him of the pretext which he might set up in his defence before you, namely, that I refused to deliver up the ship to him from an ambitious motive, wishing to return home in a fast-sailing

ship and to show off to you my costly outlay. As he declined to take the ship, and the seamen were asking for money to purchase what they required, I again went to him with witnesses, and asked him if he had come out with money and was prepared to receive the ship from me or not. He replied that he had come with money; I then requested him to lend me some upon a mortgage of the ship's furniture, that I might distribute it among the seamen and bring the ship home, as he did not choose to take it as successor in command. To this request he replied, that he would not lend me a farthing. Accordingly, I obtained a loan from Cleanax and Eperatus, two friends of my father in Tenedos, and gave the sailors their provision-money; for, through my being Pasion's son, and his being on terms of friendship with many foreigners and having great credit in Greece, I had no difficulty in borrowing money where I wanted it.

To prove the truth of these statements, I will produce the depositions before you.

[*Depositions.*]

He has read you the depositions of all persons that I was able to find, who were actually present, and who testify that I frequently offered to deliver up the ship to Polycles, and that he did not choose to receive it from me. I have further shown you by good circumstantial evidence, why he did not choose to take the ship. I desire now that the law concerning successors elect should be read to you, that you may see how heavy the penalties are, when a man has not taken a ship from his predecessor at the stated time, and how Polycles, notwithstanding these penalties, has treated not me only, but you and the laws, with contempt. As far as it depended on Polycles, all the measures of the state and her allies have failed; for he neither joined his ship according to law, nor, when he had joined, did he choose to take the command from his predecessor; whereas I did my duty during my colleague's time as well as my own, and, after the term of my trierarchy had expired, upon the general's ordering me to sail to Hierum, I convoyed the corn for the people of Athens, that you might have an abundant market, and that nothing might be lost by any neglect of mine: I rendered to the general every service which he required either of me or of

my trireme, not only spending my property, but risking my life also, and always going on board myself, although my domestic troubles at that crisis were of such a nature, that you would pity me if you heard them. My mother lay ill and on the point of death during my absence, so that she could no longer help but very slightly to retrieve my affairs. I had returned six days, and after she had seen and spoken to me she breathed her last, when she was no longer mistress of her property so as to give me what she wished. Frequently before had she sent for me, begging me to come without my ship, if I was unable to come with it. My wife, for whom I have the greatest affection, was very poorly for a long time during my absence; my children were small, and my property mortgaged: not only did my land yield no produce, but even the water in that year, as you all know, was dried up in the wells, so that not a vegetable grew in the garden: my creditors, at the expiration of the year, demanded interest, unless they were paid the principal according to contract. When I learned these tidings, partly by word of mouth from travellers, partly by letters from my friends, imagine what I must have felt, and how many tears I must have shed, while I was casting up my present distresses, or again while I was longing to see my children and my wife and mother, whom I had very little hope of finding alive. For what is sweeter to a man than these objects of his love? and why should one wish for life deprived of them?

Though such troubles had fallen upon me, I postponed all consideration of my own private interests to that of yours. My money was being wasted, my household affairs were neglected, my wife and my mother were ill. I resolved to rise superior to all these misfortunes, so that no one should accuse me either of deserting my post or letting my galley be unserviceable to the state. In return for all which I now implore you, that, as I behaved myself dutifully and did good service to you, so will you take thought for my interests now, and, remembering all that I have told you, the depositions which I have produced and the decrees, you will redress my wrongs, avenge your own, and enable me to recover the money which I have expended for this man's use. Or who will wish to show zeal for your service, when it is seen that you neither

recompense those who are honest and dutiful, nor punish those who are dishonest and disobedient? He shall read you the law, and an exact account of my expenses for the time that I served on this man's behalf, and of the money which each of the deserters from the ship ran away with, and where they severally betook themselves; to convince you that neither now nor at any time before have I told you an untruth. I consider that, as I am bound to serve the state irreproachably during the period prescribed by law, so ought I to bring to conviction and punishment those who disobey the laws and treat the laws and you with contempt. Be assured, you will punish the defendant less for my private good than for that of the public: your decision will not merely have reference to the case of former trierarchs, but will be a rule for the future, so that those who perform their duties shall not be discouraged, and the successors elect shall not defy the laws, but go and join their ships when they are appointed. These are the points you have to consider, and then proceed to a fair and righteous judgment upon the whole case.

I should be glad to ask you, men of the jury, what opinion you would have had of me, if, upon the expiration of my term, and the defendant's not having joined his ship, I had sailed away, and refused to serve beyond the legal period as the general directed. Would you not have been indignant, and thought that I had committed an offence? If then you would have been indignant in that event, at my refusal to serve beyond the legal period, surely you ought now to give me judgment against the defendant, who neglected to take the ship from me, for the expenses which I defrayed on his behalf.

Nor is it in my case only that he has failed to receive his ship as successor—for on a former occasion, when he was the colleague of Euripides, and there was an agreement between them that each should sail for six months, Euripides had gone out and his time had expired, but Polycles did not come to take his place. To prove this, I will read you a deposition.

[*The deposition.*]

THE ORATION FOR THE NAVAL CROWN.

THE ARGUMENT.

The Athenians, having to send off a fleet without delay, passed a decree, that the trierarch who first got his ship ready for sea should be rewarded with a crown, and that those who did not bring their ships up to the pier before the last day of the month should be thrown into prison. Apollodorus was the first to bring his ship up to the pier, and received a crown for it. He claimed also the crown promised on the other account, but was opposed by other candidates, the syntrierarchs apparently of another ship, and the decision upon their rival claims was referred to the Council of Five-hundred. In the speech before us, the only one of Demosthenes addressed to the Council, Apollodorus maintains his title to the reward on the ground that he had performed the condition; urging also his superior merits in other respects, for having fitted out his ship handsomely, and hired good seamen at his own cost; whereas his opponents (he contends) had no hope of success except through undue influence and the assistance of the orators who pleaded their cause; in fact, they deserved punishment rather than reward, for not having brought their vessel to the pier in time, and for employing a deputy trierarch, which was a practice detrimental to the public service.

If the speech is genuine, it refers, one would think, to the occasion mentioned in the oration against Polycles, p. 1208. The genuineness of it is doubted by A. G. Becker, who, judging from intrinsic evidence, and chiefly from the omission of names and circumstances, thinks it more resembles a sophistical exercise than a real address to an Attic tribunal.

If the decree, men of the council, had ordered you to give the crown to that person who had the greatest number of advocates, I should have been perfectly mad to claim it, as Cephisodotus alone has pleaded my cause, and a multitude of speakers have appeared for my opponents. The people, however, ordered that the treasurer should give it to that person who first got his ship ready for sea; and I have done this; therefore I say I am entitled to be crowned. What surprises me in these men is, that they neglected their ship, but got their orators ready; and it seems to me that they have mistaken the whole thing, and imagine that you are grateful not to those who do their duty, but to those who say they do it,

in which their judgment of you is different from mine. And for this very reason you ought to regard me with more favour; for it appears that I have a better opinion of you than they have. The right and proper course, men of Athens, was, that persons who claim to receive a crown from you should show themselves worthy of it, not heap abuse upon me. However, as they omit the former, and do the latter, I will prove them to be false in both points, both in their commendation of themselves and in their slander of me; and this I will prove from our respective acts.

You passed a decree, that, whoever did not bring his ship round to the pier before the last day of the month, should be put under arrest and delivered to the court of justice. This decree being confirmed,[1] I brought my ship up to the pier, and received a crown from you for it, while my adversaries did not even launch their galley, so that they have become liable to imprisonment. Would it not be the strangest conduct on your part, were you to crown persons who have rendered themselves amenable to such a penalty? The ship's furniture also, which the state is bound to supply the trierarchs with, I provided at my own expense, and took none from the public stock, whereas these men have used your furniture, and given nothing of their own towards the equipment. They can't say either, that they tried their ship sooner than I did: for, before they had even touched their galley, mine had been manned, and you all saw her practising. Again, I got the most able rowers, by giving far the largest pay. If these men had merely had inferior rowers, there would have been nothing so very shameful in it; but they have hired none whatever, through their disputing about the terms. How can it be just, when they manned their ship later than I did, that they should have the crown for first getting it ready? I think therefore that, even if I held my tongue, you must see that I am fully entitled to the crown; but I will show you that, of all people in the world, these men have the least pretence for claiming it. How will this be most clearly proved? From what they have done themselves. They looked out for a person to take their trierarchy on the lowest terms, and they have let the appointment. Is it not mani-

[1] Perhaps by the popular assembly. But Auger and Pabst take it differently.

festly unjust, to shirk the charge, and yet demand a share in the honours which it confers; and, while they accuse the deputy of not having brought their ship up to the pier, to ask you to reward them now for good service? You ought not indeed, men of Athens, to decide solely upon the grounds already mentioned; you should have regard to the precedents established by yourselves, when other men acted as these have done. For, when you were vanquished in the sea-fight by Alexander, you thought that the trierarchs who had appointed deputies were the principal authors of the disaster, and you sent them for trial, pronouncing them to have betrayed their ships and deserted their post. Aristophon was their accuser, and you were their judges; and, had your resentment been equal to their crime, there was nothing to prevent sentence of death being passed upon them. My opponents know that they have committed the same offence, and yet, instead of shuddering before you at the prospect of what they ought to suffer, they attack others in their speeches and demand crowns to be given to themselves. Only consider, what would be thought of your measures, if it appeared that for the same cause you condemned some persons to death, and rewarded others with a crown. And you would not be blamed for doing this only, but also for not punishing such offenders when you have caught them. The time to be indignant is, not when you have suffered some of your possessions to be lost, but while your possessions are safe, and you see those placed in trust, under the temptation of cupidity, neglecting to make due provision for their safety.

Don't let my speech be condemned for its bitterness; condemn those rather who have committed the fault: for it is through them that my speech is bitter. I wonder indeed how it is, that these men should imprison and punish the sailors who desert their ship, who get only thirty drachms each, while you do not treat in the same manner the trierarchs who stay at home, who have received thirty minas each for accompanying their ship: and, if a poor man commits an error under the pressure of necessity, he will be subjected to the severest penalties, but, if a rich man does the same thing out of base covetousness, he will meet with pardon. And what becomes of universal equality and popular government, if you decide things in this manner? Again, it appears to

me to be an absurdity, that a man who speaks anything contrary to law, if he is found guilty, should be mulcted in a third part of his personal rights,[1] while one who violates the law not by word, but by deed, suffers no punishment at all. Yet you will all agree, men of Athens, that to be lenient to such offences is to train up others to commit them.

I wish, as I have entered upon the subject, to explain to you the consequences of such conduct. When a deputy trierarch goes out on an expedition, he robs and plunders everybody; he reaps all the profit himself, and the first Athenian that drops in for it pays the penalty; and you are the only people who are unable to travel anywhere without a herald's staff, on account of the privateering and reprisals which are caused by these men; so that it will be found on inquiry, that galleys so commanded go out not for you but against you. For one that commands for the state should not enrich himself at the public expense, but repair the losses of the state at his own expense, if you are to get anything done that is proper. Unfortunately, every one goes to sea resolved to pursue a different course: the errors occasioned by their own vices are repaired by the damage that falls upon you. And this is just what might be expected. For you have allowed dishonest men, if they escape discovery, to keep their plunder, if they are found out, to obtain pardon: those therefore who are regardless of character have a license to do what they please. Private individuals, who only learn by suffering, we call improvident: you, who even after repeated suffering take no precaution—by what name should you be called?

It is right that I should say something about the advocates who have pleaded for them. Certain persons imagine they have such a privilege both of doing and of saying what they please with you, that some of those who formerly appeared as accusers with Aristophon, and were most bitter against the men who had let their trierarchies, now request you to confer a crown upon my opponents, and prove one of two things against themselves, either that they attacked the former parties unjustly, or that they are now advocating the cause of these men for a bribe. And they ask you to oblige them, as if it were a question about a gift instead of a prize,

[1] "Tertia pars corporis infamiâ notabatur tum, cum lingua, *i.e.* facultas in foro et in concione dicendi, interdicebatur."—Reiske.

or as if, supposing you were doing a favour,[1] it were right to confer it at the instance of such men as these on persons who neglect your affairs, instead of conferring it at the instance of better men on persons who do their duty. And again, they are so indifferent to good character, regarding everything as secondary in comparison with lucre, that, not content with contradicting in their public speeches what they have said on former occasions, they even now talk inconsistently with themselves; for, while they maintain that the crew should belong to the trireme which is to get the crown, they bid you crown the trierarchs who have estranged themselves from the service. And they say that no one got his ship ready for sea before my opponents, yet they call upon you to crown us jointly, which is contrary to the decree. I am as far from conceding this as I am from having let my trierarchy: I would neither submit to the one, nor have I done the other. They pretend to be pleading only for the sake of justice, but they show more zeal than any of you would who was acting gratuitously, as if they were bound to earn their reward, and not to deliver their opinion. Again, as though they were not members of a free commonwealth, and every one therefore had liberty of speech, but as though it were a sort of exclusive priesthood of their own, if any man stands up before you in defence of the right, they make a grievance of it, and say he is an audacious fellow; and such is the extent of their stupidity, they think that, if they call a man who has once spoken impudent, they shall themselves be thought good men and true all their lives. Yet it is through the harangues of these men our affairs get in a worse position, while it is owing to those who oppose them on honest grounds that anything is saved. With such advocates engaged to support them, and with the knowledge that their own character is so assailable, if people choose to use hard words, they have nevertheless thought proper to contest this matter, and dared to speak disparagingly of another, they who should have been only too happy if they kept out of harm's reach themselves.

[1] Others construe these words differently. Pabst:—"oder als ob Ihr durch solche Leute um die Gunst Derer Euch bewerben müsstet, die eure Sache vernachlässigen, und es nicht eure Ehre erforderte, mit Hülfe der Besseren Denen, welche Euch pflichtmässige Dienste leisten, Euch gefällig zu beweisen."

For the misdeeds and the audacity of these men you are yourselves principally to blame: for you inquire of the orators, whom you know to be employed for hire, instead of examining for yourselves, what the character of every man is. Is it not absurd, to regard these men themselves as the basest of our people, and yet to form a high opinion of those who are praised by them? They dispose of everything at their pleasure, and all but sell the public property by the common crier, and order you to crown or not to crown where they choose, making their own will paramount to your decrees. My counsel to you, men of Athens, is, not to let the honourable ambition of generous citizens be dependent upon the covetousness of the orators. Otherwise, you will teach all people to perform the duties imposed on them as cheaply as possible, and to hire at the highest price those who are ready to support them before you by impudent falsehood.

THE ORATION AGAINST CALLIPPUS.

THE ARGUMENT.

APOLLODORUS here states his case for the defence against the plaintiff Callippus.

Lycon of Heraclea, being about to sail for Libya, deposited a sum of sixteen hundred and forty drachms in Pasion's bank, with instructions to pay it to one Cephisiades, his partner, when he came to Athens. The ship in which Lycon embarked was seized by pirates or privateers in the Sinus Argolicus; he himself was wounded and carried to Argos, where he died. Callippus being the state-friend, or consul, of the Heracleotes, hearing of his death, inquired at the bank if Lycon had left any money there, was informed of the above-mentioned transaction, and saw the entry in the bank book. For the time he said nothing; but Cephisiades having afterwards arrived in Athens, and received the sixteen hundred and forty drachms, Callippus, who had conceived the idea of getting that money for himself, tried (as the defendant says) to induce Pasion to commit a breach of trust in his favour, and frighten Cephisiades into returning the money. This attempt having failed, three years afterwards he commenced an action against Pasion for having wrongfully paid over the deposit to Cephisiades. The matter was referred to private arbitration, but Pasion died before any award was given: Apollodorus having succeeded to his father's liability, a fresh action was commenced against him, and he was urged to refer the dispute to the same arbitrator, Lysithides. He consented to do so, provided the cause were judicially

referred by order of the magistrate, so that an appeal might lie from the arbitrator's decision. Lysithides having pronounced an award for the plaintiff, Apollodorus appealed to a jury. He complains that the conduct of the arbitrator was both partial and illegal, as he gave his award without being sworn. He shows that there never was any foundation for the plaintiff's demand; insisting (among other things) upon the absence of any connexion between the deceased Lycon and Callippus, the good character of his own father Pasion, and the great improbability that he would favour a stranger like Cephisiades against the plaintiff, who was a person of influence at Athens. He comments also upon the suspicious conduct of the plaintiff in having allowed so long a time to elapse before he prosecuted his demand, only going to law when he knew that Pasion was in a declining state of health, and then not pressing on the cause till after his death.

There is nothing more harassing, men of the jury, than when a man having reputation and the ability to speak is bold enough to tell lies and is well supplied with witnesses. For it then becomes necessary for the defendant not to confine himself to the facts of the case, but to attack the speaker himself, and to show that he ought not to be believed on account of his reputation. Should you establish it as a custom that clever speakers and men of high repute are to be more believed than persons of less ability, you will have set up this custom against yourselves. If ever then you did decide a case upon its own merits, looking to justice only, without being biassed in favour of either party, either the plaintiff or the defendant, I implore you to decide upon such principles now. I will explain the matter from the beginning.

Lycon the Heracleote, men of the jury, the person mentioned by the plaintiff, was a customer of my father's bank, like the other merchants; a friend of Aristonous of Decelea and Archebiades of Lampra, and an intelligent man. When he was about to set out on a voyage to Libya, he cast up his account with my father, in the presence of Archebiades and Phrasias, and directed my father to pay the money which he left (it was sixteen minas forty drachms, as I shall show you very clearly,) to Cephisiades; stating that this Cephisiades was his partner, a resident in Scyrus, but at that time abroad on some other mercantile enterprise. He directed Archebiades and Phrasias to introduce and make him known to my father, when he returned from his travels. It is the custom with all bankers, when any private individual deposits a sum of money with direction to pay it to any person, first

to write down the name of the party depositing and the sum, then to enter in the margin that "it is to be paid to this or that person;" and if they know the face of the person to whom they are to pay, they do only that, write down to whom they are to pay; but if they don't know it, they add the name of him who is to introduce and make known the person who is to receive the money. A misfortune happened to this Lycon: as soon as he had sailed round the Argolic bay, his ship was captured by some pirate vessels, his goods were conveyed to Argos, and he himself was killed by a bow-shot. Immediately afterwards Callippus the plaintiff comes to the bank, and asks whether they knew Lycon the Heracleote. Phormio, who is here in court, replied that they did know him. "And did he bank with you?"—"He did"—said Phormio—"but why do you ask?"—"Why?"—said he—"I will tell you. He is dead, and I am the state-friend of the Heracleotes. I therefore request you to show me the bank-book, that I may see if he has left any money; for I am bound to look after the affairs of all the Heracleotes." When Phormio heard this, men of the jury, he showed him the book instantly; and the book being put before him, he read it with his own eyes, and there saw the following entry—"Lycon of Heraclea, sixteen hundred and forty drachms; to be paid to Cephisiades; Archebiades of Lampra will introduce Cephisiades." Having perused this, he went away in silence, and for more than five months took no further notice. Cephisiades afterwards arrived in Athens, came to the bank, and demanded the money. There were present Archebiades and Phrasias, men of the jury, the persons whom Lycon brought to my father and requested to identify Cephisiades upon his arrival; there were present also some others; and Phormio, whom you see here, counted out and paid him the sixteen minas and forty drachms. To prove the truth of these statements, he shall read you the evidence of the depositions.

[*Depositions.*]

That I have told you nothing but the truth, you have learned from the depositions. A long time afterwards Callippus the plaintiff came up to my father in the city, and asked him if Cephisiades, to whom the entry in the book was to pay the sum left by Lycon of Heraclea, had arrived in

Athens. My father replied that he thought he had, but, if he liked to go down to the Piræus, he might know the truth. "Do you know, Pasion"—said he—"what's the reason that I ask you?"—(and by Jupiter and Apollo and Ceres, I will tell you no falsehood, men of the jury, but relate just what I heard from my father.)—"It is in your power"—said he—"both to benefit me and not to be hurt yourself. I happen to be the state-friend of the Heracleotes, and you might be glad, I should think, for me to get the money rather than an alien who resides at Scyrus and is a person of no account. The circumstances are these. Lycon is childless and has left no heir in his house, as I am informed. And besides this, when he was carried to Argos wounded, he gave to Strammenus the Argive, state-friend of the Heracleotes, the property which was brought with him. And I too am in a position to claim the money which he has left here; for I think I ought to have it. Do you then, if Cephisiades has not received it, say, if he should come here, that I dispute his title; if he has received it, say that I came with witnesses and demanded that the money or the person who has received it should be produced; and warn him, that I am the state-friend, and that he will defraud me at his peril." After he had spoken these words, "Callippus"—said my father—"I wish to oblige you, (I should be mad, if I did not,) but with this limitation, that I may not damage my own character or be a loser by the affair; to mention what you propose to Archebiades and Aristonous, and indeed to Cephisiades himself, can't hurt me; but if they won't agree to it, you must talk to them yourself." "Don't be alarmed, Pasion"—said he—"if you like, you can compel them to do what I want."

This, men of the jury, is what the plaintiff said to my father, and what he repeated to Archebiades and Cephisiades at the plaintiff's request and to oblige him; and out of this by degrees the action has been got up. I offered to satisfy the plaintiff by the most solemn of all oaths, that I had heard this statement from my father. The plaintiff, who calls upon you to believe him on his word, waited for three years after my father's first communication to Archebiades and the other friends of Cephisiades, who refused to pay any attention to what Callippus said, and when he heard that my father was in a weak state of body and came up to the city

with difficulty, and that his eye was failing him, he commences an action against him, not indeed an action for money[1] like the present, but an action for damages, charging that he had injured him by paying Cephisiades the money, which Lycon of Heraclea left with him, without his (the plaintiff's) consent, after promising not to pay it. After he had brought his action, he withdrew the record from the public arbitrator, and challenged my father to a reference before Lysithides, a companion of Isocrates and Aphareus and himself, but also an acquaintance of my father. My father consented to refer, and during his lifetime Lysithides, notwithstanding his intimacy with these men, did not venture to do anything wrong against us. Yet some of the plaintiff's friends are so shameless, that they have dared to depose, that Callippus tendered an oath to my father, and my father was unwilling to swear before Lysithides; and they fancy they can persuade you, that Lysithides, an intimate friend of Callippus, and acting as arbitrator between the parties, would have forborne to give his award against my father immediately, notwithstanding my father's refusal to make himself judge in his own case.[2] That what I say is true, and that my opponents' statements are false, is proved (I submit) by the very fact that Lysithides would have condemned him, and that I should now have been defendant in an action on the judgment, and not in an action for money. In addition to this, I will produce as witnesses before you the persons who were present at the several meetings in the reference before Lysithides.

[*Witnesses.*]

That he did not challenge my father to an oath at that time, and that he now calumniates him after his death, and

[1] See Meier and Schömann, Attic Process, 479, 510.

[2] "Sperant se vobis persuasuros, ut credatis, Lysithiden non fuisse commissurum ut damnaret patrem, cum pater nollet ipse sibi judex fieri, h. e. ultro desistere ab injustâ lite et satis Callippo facere."—Reiske.

"Sensum loci Reiskius bene vidit."—Schäfer.

"Nihil vidit hic vir perspicax. Sensus est: cum pater jurare noluisset; cum jurejurando suo, quo rem decidere potuisset, ipse sibi quasi judex fieri noluisset."—Seager.

Seager is right. The arbitrator would not fail to pronounce against Pasion, if Pasion had refused to discharge himself by an oath, when tendered to him by the adversary.

that he unscrupulously produces his own friends to give false testimony against me, it is easy for you to see both from the circumstantial evidence and from this deposition. That I was willing in my father's behalf to take that oath, which the law requires when a man sues the heir on a ground of action against the deceased ancestor, namely, that I believed that my father never promised to pay to the plaintiff the money which Lycon left, and that he was not introduced to my father by Lycon; and that Phormio was ready to make oath, that he himself stated the account with Lycon in the presence of Archebiades, and that he was directed to pay the money to Cephisiades, and that Cephisiades was presented to him by Archebiades, and that, when Callippus came the first time to the bank, stating that Lycon was dead and that he (Callippus) desired to inspect the books, to see if he had left any money, he (Phormio) showed him the books forthwith, and Callippus, after seeing the entry to pay Cephisiades, went away in silence, without making any claim to the money or giving any notice not to part with it—all this I will prove, and he shall read you both the depositions and the law.

[*The depositions. The law.*]

Now, men of the jury, I will show you that Lycon had not the least connexion with Callippus. I think this will be something for me against the bragging of this man, who pretends that the money in question was given him by Lycon as a present. You must know that Lycon had lent forty minas to Megaclides of Eleusis and his brother Thrasyllus on a mercantile adventure to Thrace, but having changed his mind and resolved not to hazard the voyage, and having some complaint against Megaclides for cheating him about the interest, he quarrelled with him and went to law to recover his loan. It was a heavy matter when so much money was at stake; yet Lycon never invited Callippus to his counsels, but asked Archebiades and the friends of Archebiades to assist him; and it was Archebiades who effected a reconciliation between the parties. To prove that this is true, I will produce Megaclides himself as a witness before you.

[*A deposition.*]

So intimate, you see, men of the jury, was Lycon with Callippus, that he never invited him to any consultation

upon his affairs, and never went to stay at his house. This is the only thing his friends have not ventured to depose to, that Lycon went to stay at his house; for they well knew that, if they told such a lie as this, the servants would convict them on examination by the torture. But I will lay before you a striking piece of evidence, which I think will convince you that Callippus has not uttered a word of truth. If Lycon, men of the jury, had been on familiar and friendly terms with the plaintiff, as he says he was, and if he had wished to make him a present of this money in the event of anything happening to himself, would it not have been better —instead of leaving the money in the bank—to leave it directly with Callippus, in which case, if he returned safe, he would have it honestly and justly restored to him by his private friend and state-friend, and, if anything happened to him, he would have given the money directly as he intended? It seems to me, that this last course would have been more straightforward and more generous. However, he did nothing of the kind, it appears, and therefore you are bound to accept it as evidence against him: he gave both written and verbal instructions to pay the money to Cephisiades.

Now consider another point, men of the jury. Callippus was a citizen of Athens, a person having it in his power either to do a service or an injury; Cephisiades was a resident alien, and a person of no power or influence; it is not likely therefore that my father would side with Cephisiades contrary to justice, rather than do justice to the plaintiff. Oh but—he will say perhaps—my father got a profit for himself out of the money, and therefore he sided with the other man rather than with the plaintiff. What? would he have wronged a person who could do him damage to twice the amount of the profit? And again—was he so grasping after lucre in this case, when he had been so liberal in paying taxes and defraying public charges and making donations to the state? He that never wronged a stranger, has he done wrong to Callippus? And did the plaintiff, as he pretends, tender an oath to my father as an honest and truthful person, and yet does he now speak of him as a rascal who expunges deposits from his book? And, when my father would neither take the oath, as the plaintiff says, nor pay the debt, would not judgment have been pronounced against him immediately?

Who can believe these things, men of the jury? No one, I should think.

Has Archebiades sunk so low, as to give evidence against Callippus, who is a member of the same township as himself, and also a statesman and an orator, and to say that my tale is a true one, and his is false, when he knows too, that if Callippus chooses to proceed against him for false testimony, and to do nothing more than drive him to an oath, he will be compelled to take whatever oath Callippus requires? And again, can you be persuaded that Archebiades would perjure himself, in order that Cephisiades, a resident alien, may get this money, or for Phormio's benefit, whom the plaintiff charges with having appropriated a portion of the deposit? It is not a very probable thing, men of the jury. It is not fair to believe that either Archebiades or my father was capable of an act of baseness. You know that my father was a person too ambitious of honour to be guilty of base or mean practices, and that he did not stand in such a relation to Callippus, that he would venture to treat him with contempt or do him an injury. Callippus, I should think, was hardly so slight a man as to be treated with contempt. On the contrary, he is so powerful, that last year, after he had brought this action against me and challenged me to refer the matter to Lysithides, (when I, despicable as he thought me, acted wisely at least in one respect, for I would only submit to a strict legal reference, and I carried it before the magistrate);[1] Callippus persuaded the arbitrator, who had been appointed according to the laws, to pronounce an award not upon oath, though I protested against it and required him to give his award upon oath according to law: this Callippus did, that he might be able to say to you, that Lysithides, a good man and true, had

[1] The meaning appears to be this. Apollodorus would not consent to refer to Lysithides as a private arbitrator, in which case there would have been no appeal from his decision, but insisted that the reference should be *in the cause*, Lysithides being doubtless one of the public arbitrators, for they were most commonly chosen as private referees. Notice was in the usual way given to the magistrate who had cognizance of the cause, and he sent it to Lysithides by consent of both parties. Apollodorus complains of the partiality of Lysithides and of his having decided without taking an oath according to law; at the same time he takes credit for his own sagacity in having secured to himself the right of appeal.

already given a decision upon the case. Lysithides, men of the jury, as long as my father was alive, would probably never have wronged him either with an oath or without an oath, because he had a regard for my father; but for me he had no regard, while not upon his oath, though perhaps, if he had been upon his oath, he would not have wronged me for his own sake: and therefore he pronounced an award unsworn.

To prove the truth of these statements, I will produce before you the witnesses who were present.

[*Witnesses.*]

What Callippus is able to do in defiance of law and justice, you have learned from the deposition, men of the jury. I entreat you, both on my own behalf and on my father's, to remember that in support of all that I have said I have produced before you witnesses and laws and circumstantial and confirmatory evidence; and I show you that when Callippus, if he had any right to this money, might have proceeded against Cephisiades, who admits that he has received the money, notwithstanding his having got these assurances from us, he takes no proceedings, knowing that the money is not in our hands—I entreat you to remember all this, and to give a verdict for the defendant. If you do so, you will have pronounced a decision in accordance with law and justice, a decision worthy of yourselves and of my father: for I would rather you should take all I possessed, than have to pay an unjust demand in a vexatious action.

THE ORATION AGAINST NICOSTRATUS.

THE ARGUMENT.

Apollodorus here appears in support of an information which he had lodged respecting some slaves, which he represented to be the property of one Arethusius, and, as such, liable to be seized for a debt due from him to the state. Nicostratus, the brother of Arethusius, disputes the title of the State, and claims the slaves as his own. A proceeding of this kind (as we have seen) was called *Apographe*, because the informer gave in a written statement or inventory of the debtor's goods which he had discovered (see Volume iii. Appendix viii. page

341). If the title was contested in a court of law, and the informer made out his case, he was entitled to three-fourths of the goods as a reward: if he failed, he was liable to a penalty of a thousand drachms, and that partial disfranchisement which consisted in forfeiting the right to appear as public prosecutor again.

Apollodorus, in order to conciliate the favour of the court, renounces his claim to the informer's share of the property, and declares the motive which induced him to undertake the present case, namely, his desire to avenge himself on Nicostratus and Arethusius for injuries which they had done him. Such a motive being not merely excusable, but meritorious and laudable, in the eyes of the Athenian people, Apollodorus enters into the history of his former connexion and dealings with these men; showing that Nicostratus was under the greatest obligations to him, yet had treated him with the grossest ingratitude, and had even leagued with his enemies to oppress and destroy him. He had, by the false testimony of Arethusius and another person, caused Apollodorus to be fined six hundred and ten drachms for non-appearance to a pretended citation. Arethusius had by the like fraud got a judgment for ten drachms against Apollodorus, which he proceeded to execute: (just as if at this day a man procured a false affidavit of the service of a writ, and then proceeded to judgment and execution.) These frauds were followed by acts of outrage and violence of a criminal nature. Apollodorus afterwards indicted Arethusius for having borne false witness to the citation: he was convicted, and a fine of a talent was imposed on him by the jury, for the satisfaction of which his effects were liable to be seized. After showing these preliminary matters, Apollodorus proceeds to the proof of that, which (strictly speaking) was the only issue in the cause, namely, that the slaves in question were the property of Arethusius, and not of Nicostratus; and he urges the necessity of dealing strictly with these fictitious claims, and preventing frauds upon the public treasury.

THAT I have laid this information concerning the property of Arethusius not groundlessly and vexatiously, but because I have sustained injury and outrage from him and his brother, and thought it my duty to avenge myself on them, you may be satisfied, men of the jury, when you see the amount[1] at which the slaves are valued, and that I have laid the

[1] I am disposed to adopt the second thoughts of Böckh upon this passage, viz. that μέγεθος signifies the small, and not the great, value of the property, and that the two slaves together were valued at two minas and a half. The meaning then is,—When you see that so small a loss would be inflicted on my adversary, and so small a gain would fall to my share as informer in the event of success, while I should lose more than quadruple in the event of failure, you can hardly suppose that my charge is a false one.

Reiske and Schäfer take a different view. Pabst is dubious.

information in my own name. For surely, if I had been taking vexatious proceedings, I should not have scheduled slaves worth two minas and a half, according to the claimant's own valuation, and run the risk of losing a thousand drachms and being precluded from ever indicting any one hereafter on my own behalf. Nor again was I unable, for lack of friends and means, to find a person to undertake the information: but I considered that it would be the most disgraceful thing in the world, when I myself had been injured, that another man should lend his name on behalf of me the injured party, and that this should serve my adversaries for a proof of my untruthfulness, whenever I spoke to you of our enmity, because (they would say) no other man would ever have appeared as the informer, if I had really been the injured party. For these reasons I exhibited the information. If I can establish upon the trial, that the slaves belong to Arethusius, to whom they were described as belonging, I renounce in favour of the state the three-fourths, which by law are given to the individual informer; and I am content, on my own part, with having simply taken vengeance. Had my allowance of water enabled me to give you a full history from the beginning of all the benefits which I have conferred on them, and all the ingratitude with which I have been requited, I am sure you would have still more excused my resentment, and would have deemed these persons the most wicked of mankind. As it is, however, not even double my allowance of water would be sufficient. I will relate to you then the most serious and flagrant injuries which they have done me, and those which have led to the present information: the bulk of them I will pass by.

Nicostratus, whom you now see before you, men of the jury, was my country neighbour, and a person of the same age as myself. I had long been acquainted with him, but after my father's death, when I went to reside in the country, where I now reside, we were thrown still more together, by reason of our being neighbours and of the same age. In course of time we grew exceedingly intimate; indeed I was on such intimate terms with him, that I never refused him anything that he asked; and he also was of use to me in managing and attending to my affairs, and, whenever I was abroad either in the public service as trierarch, or on any

private business of my own, I used to leave him in charge of everything on the farm.

I happened to be sent with a ship that I commanded round Peloponnesus, from which I had to carry the ambassadors appointed by the people to Sicily. The ship was to sail in a hurry: so I wrote to Nicostratus telling him that I had set sail and should not be able to return home, that I might not delay the ambassadors; and I charged him to take the care and management of my household, as he had done on former occasions. During my absence three domestic servants ran away from him, from his own farm; two that I had given him, and one that he had purchased himself. He pursued them, and in doing so was captured by a privateer, carried to Ægina, and there sold. When I had returned home with my ship, Dinon, this man's brother, came and told me of his disaster, stating that Nicostratus had sent him letters, but, as he had not the means of travelling, he had not gone after him, and telling me also that he heard his brother was in a most wretched condition. On receiving this intelligence, I felt a deep compassion for his misfortune, and I sent his brother Dinon to him instantly, giving him three hundred drachms to pay the expenses of the journey. Nicostratus, upon his return to Athens, came to me, embraced me, thanked me most warmly for supplying his brother with the travelling expenses, bewailed his unhappy fate, complained of his own relations, and entreated me, as I had always been his true friend before, to stand by him still. He told me at the same time with tears in his eyes, that he had been ransomed for six and twenty minas, and he requested me to contribute something towards the redemption money. Touched with pity at his story, and seeing in what a wretched plight he was—(he showed me the marks of the fetters on his calves; he has the scars of them still, and if you ask him to show them to you, he won't do it)—I replied, that I had been his true friend before, and would assist him in his distress, and I would forgive him the thirty minas which I gave his brother for the expenses of his journey to him, and I would subscribe a thousand drachms towards his ransom. Nor did I content myself with mere words; but what I promised I performed. Having no ready money by me, in consequence of my disputes with Phormio, who was keeping me out of the

property which my father left me, I went to Theocles, who then carried on the business of a banker, taking with me some cups and a golden crown, part of the property which had come to me from my father, and desired him to give a thousand drachms to Nicostratus, and I made Nicostratus a present of that sum: I acknowledge that it is a gift.

A few days afterwards he came to me with tears in his eyes, and told me that the strangers who had lent him the redemption money were demanding payment of the remainder, and that it was stipulated in the agreement that he should pay it within thirty days, or be liable for double the amount, and that no one was willing either to buy or to take a mortgage of the land adjoining mine, because his brother Arethusius, the owner of these slaves which are now scheduled, would not allow it either to be sold or mortgaged, as money was owing upon it to himself. "You then"—he said—"furnish me with the sum which is wanting, before the thirty days have expired, that what I have already paid, the thousand drachms, may not be lost, and that I may not be carried to prison. I will collect the whole amount"—said he—"when I have got rid of the strangers, and pay you all that you have lent. You know"—said he—"the laws expressly declare that a person ransomed from the enemy shall become the property of the ransomer, if he fails to pay the redemption money." Hearing him say this, and thinking he spoke the truth, I replied as was natural for a young man and an intimate friend, never expecting to be defrauded. "Nicostratus," I said—"I was your true friend in former times, and I have now assisted you in your misfortunes, as far as I could. Since then at the present moment you cannct find the whole sum that is wanted, and I myself have no ready cash by me, I will lend you as much of my property as you desire, and you shall mortgage it for what is wanted to make up the rest of the debt, and you may have the use of the money for a twelvemonth without interest, and pay off the strangers. When you have collected the amount that I have advanced you, then pay off my mortgage as you promise." Nicostratus warmly thanked me for this, and urged me to conclude the affair as soon as possible, before the expiration of the days in which he said he had to pay the ransom. Accordingly I mortgaged my lodging-house to Arcesas of Pambotadæ,

whom this man himself recommended to me, for sixteen minas, at the interest of eight obols for the mina per month

After he had received the money, he not only showed me no gratitude for what I had done for him, but immediately laid a plot to rob me of the money and become my enemy, so that I, not knowing how to deal with the affair on account of my youth and inexperience, might take no proceedings to recover the sum for which the lodging-house was mortgaged, but forgive it him. Accordingly he first conspires against me with my opponents in a lawsuit, and binds himself by oath to support them;[1] after the proceedings had commenced, he discloses to them my case, which he was acquainted with, and enters me as owing to the treasury a fine of six hundred and ten drachms for non-production of property,[2] without my ever having been served with a citation, and he procured the judgment against me through Lycidas the miller. He caused his brother (this same Arethusius, to whom the slaves belong) and another person to be inserted as attesting witnesses to the citation; and they were prepared, in case I brought to a hearing before the magistrate the suits which I had commenced against my relations by whom I had been defrauded, to lay an information against me and throw me into prison. Besides this, Arethusius procured a judgment against me as debtor to the treasury for ten drachms, without my having been cited to appear, (he however had inserted witnesses to a citation,) then he entered forcibly into my house and carried off all my furniture, to the value of more than twenty minas, and did not leave a single particle. I paid the debt to the treasury, and resolving to avenge myself, as soon as I heard of the plot, I took proceedings against the

[1] Pabst:—"ertheilte ihnen eidliche Zusicherungen für sie zu zeugen."

[2] A man in possession of goods or documents, which either belonged to another, or which another was entitled to inspect, might be summoned to produce them, ἐμφανῆ καταστῆσαι, a process corresponding to the Roman *actio ad exhibendum*. If he refused to obey the summons, the magistrate before whom he was cited to attend might impose a fine upon him, and this might be repeated until his contumacy was overcome. The party summoned however might contend, either that he was not in possession of the things required, or that he was not bound to produce them; in either of which cases, the demandant had to proceed against him by an action, δίκη εἰς ἐμφανῶν κατάστασιν.

See Meier and Schömann, Attic Process, page 374.

person who confessed that he had cited me to appear, (I mean Arethusius,) and indicted him for false citation according to law: he then came at night into my farm, cut off all the valuable fruit-grafts that were there, and also the young trees in the shrubbery,[1] and broke down the enclosed plantations of olives; not enemies in war would make such cruel havoc as he did. In addition to this, as they were neighbours, and my farm was adjacent to theirs, they sent into it in the daytime a young boy, the son of a citizen, and desired him to pluck off the flowers of my rosary, so that, if I caught him, and struck him in a passion, or put him in bonds, taking him for a slave, they might bring an indictment for outrage against me. They failed in this: I called some persons to bear witness to the wrong done me, but committed no offence against them myself; so they prepared to play me a trick of the foulest kind. My indictment against Arethusius for false citation had been heard before the magistrate, and I was about to bring it to trial before a jury; he then lay in wait for me near the stone-quarries, as I was coming up late from Piræus, gave me a blow with his fist, seized me round the waist, and would have pushed me into the stone-quarries, if some people had not come up, hearing my cries, and run to my assistance. A few days afterwards, I went into court, and, though there was a long cause-list, and I had but a limited time to conduct my case, I proved that he had falsely attested the citation and done me the other injuries which I have mentioned, and so obtained his conviction. When it came to the question of punishment, the jurors were inclined to pass sentence of death upon him; I begged them however not to do anything of the sort at my instance, but to consent to the fine which they themselves proposed, a talent—not that I had any desire to spare Arethusius, (for he well deserved death for what he had done to me,) but that it might not be said, that I, the son of Pasion, who had been created citizen by a decree of the people, had caused the death of an Athenian.

To prove that I have told you no more than the truth, I will call witnesses to all these facts before you.

[1] Ἀναδενδρὰς, according to Reiske, is, "ambulatio arboribus septa, areola arboribus aut floribus consita." Pabst—"die um Baüme geschlungenen Reben."

[*Witnesses.*]

The wrongs done me by Arethusius and his brother, which have caused me to lay this information, I have explained to you, men of the jury. That the slaves belong to Arethusius, and that I have only scheduled what forms part of his estate, I am about to show you. Cerdon he reared from early childhood; and to prove that he belonged to Arethusius, I will call witnesses before you, who know the fact.

[*Witnesses.*]

I shall show also, that Arethusius got the wages on his account from all the persons with whom he ever worked; and that he used to receive compensation, or to pay it when Cerdon did any mischief, as a master would be bound to do. I will prove this by the evidence of witnesses acquainted with the facts.

[*Witnesses.*]

Manes he became possessed of in the following way. He lent a sum of money to Archepolis of Piræus, and, as Archepolis was not able to pay either the principal or the interest, he valued the slave to him for the whole amount. To prove the truth of this, I will produce the witnesses before you.

[*Witnesses.*]

I will give you a further proof, men of the jury, that the slaves belong to Arethusius. Whenever these men either bought the year's fruits or engaged to reap a harvest for a certain sum, or undertook any other farm service, Arethusius was the person who made the purchase or engagement on their behalf. And this too I will prove by calling the witnesses.

[*Witnesses.*]

I have laid before you all the evidence I had to offer, to prove that the slaves belong to Arethusius. I wish now to say a word about the challenge which these men gave to me, and that which I gave to them. They challenged me at the first hearing before the magistrate, saying they were ready to deliver up the slaves for me to question them myself; and they wanted this to serve them for a kind of evidence.

I replied to them in the presence of witnesses, that I was ready to go to the Council with them, and in conjunction with the Council or with the Eleven to receive the slaves for examination: and I said that, had I been suing them in a private action, I would have accepted their offer to deliver up the slaves, but now the slaves and the information belonged to the state, therefore they ought to be questioned publicly. I thought it was not right that I, a private individual, should put public slaves to the torture; for the application of the torture was not under my control, nor was I the proper person to decide on the meaning of their answers. I considered that the magistrate or persons chosen by the Council should have had the answers taken down in writing, then put their seal to the examination, and produced it in court, to guide you to that verdict which your sense of justice dictated. For, if the slaves had been questioned privately, everything would have been disputed by these men; if publicly, we should have held our tongues, and the magistrates or persons chosen by the Council would have carried the examination so far as they thought proper. Upon my making this offer, they said they would not deliver up the slaves to the magistrate, nor would they go with me before the Council.

To prove the truth of these statements, please to call the witnesses who depose to them.

[*Witnesses.*]

Their impudence in claiming your property is manifest, as it seems to me, in many ways, but I shall exhibit it in the strongest point of view by referring to your laws. You must know that these men, when the jurors wished to pass a capital sentence on Arethusius, entreated the jurors to impose a pecuniary fine, and me to consent to it: and they agreed to be jointly responsible for the payment. So far however from paying according to their guarantee, they lay claim to your property. The laws declare that a man's estate shall be confiscated, who has guaranteed a sum due to the state and does not satisfy his guarantee; therefore, even if the slaves belonged to these persons, they ought to be confiscated, if the laws are good for anything, And, before Arethusius became indebted to the state, he was acknowledged to be the richest

of the brothers; but, since the laws have adjudged his property to you, Arethusius turns out to be poor, and his mother claims one part of his property, and his brothers claim another. If they meant to deal fairly by you, they should first have disclosed all the estate of Arethusius, and then have put in their own claim if any of their property had been scheduled. If you reflect then, that there will never be a lack of claimants to contest your rights—for they'll either manage to get orphans or heiresses, to move your compassion, or they'll talk about old age and distresses and mother's maintenance, and by dwelling piteously on those topics by which they expect most easily to deceive you, endeavour to cheat the state of her dues—I say, if you disregard all these pretences and find a verdict against Nicostratus, you will act judiciously and wisely.

THE ORATION AGAINST CONON.

THE ARGUMENT.

This was an action for assault and battery, brought by Ariston against Conon, which, after having been sent before a public arbitrator, was tried, as Pabst thinks, before the tribunal of the Forty. (See Meier and Schömann, Attic Process, page 80.) The circumstances of the case are briefly stated. There had been a quarrel between the plaintiff and the sons of the defendant, when they were in garrison together at Panactus; during which time the defendant's sons had grossly misbehaved themselves and insulted the plaintiff, and, upon his complaint to the general, had received a reprimand. This rankled in their minds, and, on their return to Athens, they determined to be revenged. One evening, when Ariston was walking in the market-place, he met Ctesias, a son of Conon, in a state of intoxication. Ctesias, observing him, fetched his father and some boon-companions from a party, and they, falling upon Ariston, gave him a violent beating, knocked him down, and used him so brutally, that for some time after his life was in danger. They also carried away his cloak, which they had torn from his back. These are the facts which constitute the grounds of the plaintiff's action. He calls witnesses who saw the assault committed, proves the nature of the injury by medical testimony, and gives evidence of the malicious motives by way of aggravation. The circumstances plainly indicated that this was not a mere drunken frolic, as the defendant contended; and, even if it

were so, it would be no excuse for so serious an outrage. The levity with which Conon had treated the matter was only a proof of his own profligacy and brutality. When he was before the arbitrator, he had not only endeavoured to make a joke of it, but had offered evidence to disprove the assault. The plaintiff therefore comments upon the character of his opponent's witnesses, and shows that they were not to be believed in opposition to his own. He takes credit also to himself for his moderation, in not having proceeded against the defendant by indictment, as he might have done, for highway-robbery and criminal outrage.

The events here related are made use of by Becker in scene v. of the Charicles.

Men of Athens, an outrage of such violence was committed on me by Conon the defendant, that for a long time I was given over by my relations and medical attendants. Contrary to expectation, I recovered; and then commenced this action against him for the assault. My relations and friends, whom I consulted, said that, for what he had done, he was liable to be imprisoned for robbery, or indicted for a gross outrage; but strongly advised me not to undertake too arduous a task, or appear as prosecutor on a charge unsuited to my years. I followed their advice, and brought an action, though I should gladly have prosecuted the defendant for a capital crime. And I am sure, men of Athens, you will forgive me, when you hear what I have suffered; for, grievous as the assault was, it exceeds not the brutality of his subsequent conduct. I request and implore you all, to lend a kind ear to my complaint, and, if you think I have been aggrieved and injured, to give me the redress which I am entitled to. I will state the facts in order, as they occurred, in as few words as possible.

Two years ago we went by order of the people to garrison Panactus. The sons of the defendant Conon pitched their tent near to us, most unfortunately; for hence arose all our feuds and quarrels; I will tell you how. They used to drink the whole of the day after luncheon, and continued to do so as long as we were in the garrison. Our mode of life was the same out there as at home. So it happened that, at the hour when others were dining, these men would be playing drunken frolics. And for some time they played them off upon our waiting-boys only, but at last upon us. They would pretend that the boys annoyed them with smoke in cooking, or were

saucy; then they beat them, emptied the chamber-pots on them, and made water over them, and played all sorts of insolent and brutal tricks. When this was brought to our notice, we were annoyed, yet at first only expressed our disgust; but when they taunted us and would not desist, we all went (not I alone, but all the messmates in a body), and informed the general. He rebuked them severely, not only for their treatment of us, but for their whole behaviour in the camp. Yet (so far from leaving off or being ashamed of their pranks) that very evening, as soon as it was dark, they burst in upon us, and, after using abusive language, ended by striking me; and raised such a clamour and uproar about the tent, as to bring the general, the officers, and some of the other soldiers, but for whose interference we might have suffered, or been provoked to inflict, some serious injury. Things having gone so far, upon our return home there arose, as you might expect, a feeling of resentment and enmity between us. However, I never thought of bringing an action against them, or of taking any notice of what had passed; I simply resolved for the future to shun and avoid the company of such persons. I will prove the facts which I have stated, and then explain what I have suffered from the defendant himself. You will find, that he, who ought to have reproved his sons for their conduct, has himself been guilty of a much more shameful aggression.

[*Depositions.*]

Such are the acts which I thought proper to pass over. Not long after this, I was taking my usual evening walk in the market-place with a companion of my own age, Phanostratus of Cephisia, when Ctesias, the defendant's son, passed me in a state of intoxication by the Leocorium, near the houses of Pythodorus. Seeing us, he made an exclamation, then muttered something indistinctly to himself, like a drunken man, and went on his way up to Melita. There was a drinking party (as I afterwards heard) at the house of Pamphilus the fuller. Conon the defendant, one Theotimus, Archebiades, Spintharus, son of Eubulus, Theogenes, son of Andromenes, and many others were there. Ctesias made them leave the party and go with him to the market-place. We happened to be returning from the temple of Proserpine,

and again walking nearly opposite the Leocorium, when we encountered them. As we came close up, one of them (I don't know which) rushed upon Phanostratus, and held him; Conon and his son, and the son of Andromenes, fell upon me, pulled off my cloak, tripped up my heels, threw me into the mud, and jumped on me and kicked me with such violence, that my lip was cut through and my eyes were closed up. In this state they left me, unable to rise or speak. As I lay, I heard them use dreadful and blasphemous language, some of which I should be sorry to repeat before you. One thing however, which proves the defendant's malice, and shows him to have been the leader in the affair, you shall hear. He crowed, mimicking the fighting-cocks that have won a battle; and his companions bade him clap his elbows against his sides like wings. I was afterwards found by some persons who came that way, and carried home, without my cloak; for these men had gone off with that. When they got to the door, my mother and the female servants began crying and wailing; I was carried with some difficulty to a bath; they washed me all over, and then showed me to the surgeons. To prove these facts, I will call witnesses.

[*Witnesses.*]

It so happened, men of Athens, that Euxitheus of Chollidæ, who is now in court, a relation of mine, and Midias, returning from some dinner, came up just as I was near home, followed me to the bath, and were present when the men brought a surgeon. I was then so weak, that, as it was a long way from the bath to my house, my attendants thought it best to take me for that evening to the house of Midias; and they did so. You shall hear their evidence, to show you how many persons know the particulars of this outrage.

[*Depositions.*]

Now take the deposition of the surgeon.

[*The deposition.*]

Such was the immediate consequence of the blows and maltreatment which I received, as you hear from me and from all the witnesses who saw me at the time. Afterwards, although the swellings in my face and the bruises were not considered dangerous by the surgeon, a fever ensued, and

continued without intermission, and violent and sharp pains in the whole of my body, but especially in my sides and stomach. I was unable to take any food; and, as the surgeon said, if a sudden discharge of blood had not relieved me at the moment of intense suffering and danger, I should have died of suppuration. The loss of blood saved me. That I am speaking the truth, when I tell you that from the blows which these men gave me I suffered a long illness, which brought me to the point of death, I will prove by the evidence of the surgeon and others who attended me.

[*Depositions.*]

That I received no slight or trifling blows, but was in peril of my life from the malice and brutality of these men, and have commenced an action far more lenient than the case deserves, I take it you have abundant proof. But I dare say, some of you wonder what defence Conon will venture to set up. I will tell you beforehand the answer, which I hear he is prepared to make. He will try to make a jest of the outrage, and turn the whole matter into ridicule. He'll tell you, that there are many persons in the city, sons of respectable citizens, who in a spirit of youthful pleasantry have given themselves nicknames, such as Priapi or Sileni,[1] and that some of them have mistresses; and that his own son is one of that set, and has often got into squabbles about a girl; and that such things are natural to young men. Then he will make out that I and my brothers are not only drunken and quarrelsome people, but unfeeling also and vindictive. For my part, men of Athens, deeply as I resent the wrongs I have suffered, I should feel it no less a grievance, and (if I may so express myself) an insult, if you were to believe these assertions of Conon, and if you could be so weak as to take for granted the character which a man gives to himself or the imputations of his neighbour, instead of allowing to respectable men the benefit of their daily conduct and mode of

[1] In the translation of ἰθυφάλλους and αὐτοληκύθους I have followed Auger, who says in a note—"Il y a d'autres noms en Grec, des noms obscenes, que se donnoient des libertins et des débauchés. Je les ai remplacés par des noms connus, consacrés dans le paganisme au libertinage et à la débauche."

Those who desire further information as to the Greek terms may consult the note of Pabst.

life. No one has ever seen us either drunk or committing outrage; and I cannot think I am doing anything unfeeling, when I seek redress for my wrongs according to law. The sons of the defendant are welcome (for all I care) to be Sileni and Priapi. I only pray to heaven, that both his sons and himself may reap the consequences of all such titles. The rites which they perform, and their actions too, are so indecent, that no respectable person can mention, much less imitate them.

But what have I to do with all this? I have yet to learn, that there is any excuse or pretence, on which a man, who is convicted of battery and outrage, is let off by a jury. The laws act on a different principle. They have taken care, that even necessary excuses may not operate too powerfully. For instance—I have been forced by the defendant to inquire into these matters—there are actions for evil speaking: which lie (they tell me) on this account; that bad words may not lead men to strike one another. Again, there are actions for battery. These (I hear) lie for this reason; that the weaker party in a quarrel may not defend himself with a stone or the like, but wait for legal redress. Again, there are indictments for wounding, that wounds may not lead to murder. The least of these evils, abusive language, is guarded against, I imagine, to prevent the last and most serious; that murder may not ensue, and men may not be led on by steps from wrangling to blows, from blows to wounds, from wounds to death; but that every such offence may be punishable by law, and the decision not left to the passion or will of the party at the time. Such being the law, will you, because Conon says—"we are a band of Priapi, and in our amours strike and break the necks of whom we please"—will you laugh and let him off? I trust not. None of you would have laughed, if you had been present, when I was dragged and stripped and kicked, and carried to that home which I had left strong and well, and my mother rushed out, and the women set up such a crying and wailing (as if a man had died in the house) that some of the neighbours sent to ask what was the matter. It seems to me, men of Athens, you ought to allow no man, on any pretence, to commit an outrage with impunity; but if any excuse is allowable, it should be confined to those whom youth leads astray, and even then

it should extend, not to impunity, but only to mitigation of punishment. But when a man more than fifty years old, in company with younger men, and those his sons, so far from discouraging or preventing their crime, is himself the leader and the foremost and most wicked of all; what punishment is sufficient for him? Death is too little, it seems to me. Suppose he had taken no part himself, but had stood by, while his son Ctesias was doing that which I proved him (the defendant) to have done; even then he would have deserved your execration. For if he has trained his own sons so badly, that they are not afraid or ashamed in his presence to commit crimes for some of which the penalty is death, what punishment do you think is too severe for him? I think it proves that he had no reverence for his own father. For, if he had feared and honoured his father, he would have exacted respect from his children.

Now take the statute of outrage, and that concerning highway-robbers. You will see that he is amenable to both. Read them:

[*The laws.*]

To both these statutes the defendant Conon is amenable for his acts; for he committed outrage and highway-robbery. And though I have not chosen to pursue the remedy which they give, that should be taken as a proof that I am a quiet and inoffensive man, not that he is less wicked. If anything had happened to me, he was chargeable with murder and the heaviest penalties of the law. Remember, the father of the priestess of Brauron, who was admitted not to have touched the deceased, because he instigated the person who did strike, was sentenced to exile by the Council of Areopagus. And justly. For if standers-by, instead of restraining, are to encourage those whom wine, anger, or any other cause impels to break the law, there is no chance of escape for a man who falls into the hands of ruffians: he must be beaten, until they are tired; as was my case.

I will now tell you what they did at the arbitration; by which you will see the grossness of their conduct. They spun out the time till past midnight, not choosing to read the depositions, or to give copies; taking every one of my witnesses to the altar, and swearing them; and writing depo-

sitions which had nothing to do with the question; or instance, "that this was a child of his by a mistress, and that he had been served in such and such a manner." Upon my word, men of Athens, every one present expressed his disgust at their behaviour; and at last they were disgusted with themselves. However, when they had had their fill and were tired of all this, they put in a challenge, (to trick us, and prevent the box being sealed,) tendering slaves, whose names they wrote down, to be examined as to the blows. And I believe most of their defence will turn upon this point. Now I beg you to consider, that, if these men gave the challenge for the purpose of having the inquiry by torture, and if they relied upon this method of proof, they would not have given it when the award was on the point of being pronounced, at night time, and when no further pretext was left them; but in the first instance, before the action was brought, when I was lying dangerously ill, and telling everybody that came to see me, who it was that gave the first blow and did me the greatest injury—I say he would have come then directly to my house, and brought a number of witnesses; he would have offered to deliver up his servants, and invited some of the Areopagic Council to attend; for, if I had died, the matter would have come before them. Or, if he was not aware of the circumstances, and having this proof, as he will now say, took no precaution against the danger; at all events, after I had recovered and summoned him, he would have tendered his slaves at the first meeting before the arbitrator. But he did no such thing. To prove that the challenge, as I say, was a trick, read this deposition:

[*The deposition.*]

Respecting the torture, then, bear in mind the time when he proposed it; his evasive purpose in doing so; the first occasions, on which it appears he had no desire for such a test, and made no proposal or request for it. Being convicted in every point before the arbitrator, as he now is before you, and shown to be guilty of all the charges made against him, he puts in a false deposition, headed with names which (I think) you will know, when you hear them—"Diotimus son of Diotimus of Icaria, Archebiades son of Demoteles of Alæa, Chæretimus son of Charimenes of Pitthus, testify, that

they were returning from a dinner with Conon, and found Ariston and the son of Conon fighting in the market-place, and that Conon did not strike Ariston"—as if you would believe them at once, and not consider the real state of the case—first, that Lysistratus, Paseas, Niceratus, and Diodorus, who have expressly declared they saw me beaten by Conon and stripped of my coat and otherwise brutally treated, and who were unknown to me, and accidentally witnessed the affray, would none of them have given false evidence, had they not seen the treatment I received; secondly, that I myself, if the defendant was innocent, should not have let off men who are confessed by my opponents themselves to have struck me, and selected one to proceed against, who never touched me at all. Why should I? For what object? No. The man who struck me first and most spitefully used me, he it is whom I sue, and whom I seek to be avenged upon and bring to justice. Such is my case, a true and straightforward one. The defendant, without these witnesses, had not a word to say, but must have given up the cause; and they, his boon-companions and comrades in mischief, have, as might have been expected, given false testimony. If things are to go on so, and, the moment you find men shameless enough to give manifestly false evidence, truth is to be of no kind of use, it will be a terrible affair. Perhaps they will say this is not their character. I think however, that many of you know Diotimus and Archebiades, and Chæretimus the grey-headed man, who in the day time have a frown on their brows, and pretend to laconize, and wear coarse mantles and single-soled shoes, but, when they meet by themselves, stick at no kind of wickedness and turpitude. These are their fine and spirited sayings—"Shan't we bear witness for one another? Doesn't it become friends and comrades? What will he bring against you that you're afraid of? Some men say they saw him beaten? We'll say you never touched him. Stripped of his coat? We'll say, they began. His lip was sewed up? We'll say your head or something else was broken."—Remember, men of Athens, I produce medical witnesses; they do not; for they can get no evidence against me, but what is furnished by themselves. Heaven knows, they are ready enough themselves for anything. To show you the sort of things they go

about doing read these depositions; and you, stop the water.

[*The depositions.*]

Men who break into houses and strike people that come in their way—do you suppose they would scruple to bear false witness on a slip of paper for one another?—these men who are so closely leagued together in malignity and villany and recklessness and brutality? for I think all these terms apply to their acts. Indeed they have committed graver offences than what you have heard: but it would be impossible for me to find out all the sufferers.

The most impudent thing, which I hear they intend to do, I think it better to warn you of. They say he will have his sons before him and swear by them, imprecating some horrible curses, which a person, who heard them with astonishment, reported to me. Really, men of Athens, such audacity is intolerable: for, I take it, the most honourable men, who would be shocked at telling a falsehood themselves, are most easily taken in by such people; though indeed they ought not to believe them, without looking to their lives and character. But how reckless in these matters the defendant is, I must inform you; for I have been forced to make inquiry. I am told, men of Athens, that a certain Bacchius, whom you condemned to death, and Aristocrates, who has the sore eyes, and some other persons of the same stamp, were intimate with Conon in their younger days, and got the name of Triballi; and these persons used to devour the feast of Hecate,[1] and to gather up for their dinner the testicles of the pigs, which are used for purification on entering the assembly, and they thought nothing of taking oaths and committing perjury. Surely Conon, a person of this description, is not to be believed on his oath. Such a thing is out of the question. A man who is reluctant to swear even to the truth, and would never dream of swearing by his children, contrary to the usages of our country, but would suffer anything first, although he is ready in a case of necessity to swear as the law directs, is more trustworthy than a man

[1] "Nemo honestus et paulo religiosior ejusmodi dapes attingebat, quippe quæ piaculares essent, sed solummodo aut pauperes eas tollebant, aut Cynici, aut nemo."—Reiske.

who swears by his children and before the burning altar. I, who am on every account more worthy to be believed than you, Conon, offered to take this[1] oath; not that I might escape the punishment due to my offence, not because I am ready (like you) to do anything, but for the sake of truth, and to avoid a further outrage, and in the spirit of a man who would not accomplish his objects by perjury. Read the challenge.

[*The challenge.*]

Such an oath was I then willing to take; and now, men of Athens, to satisfy you and the bystanders, I swear by all the gods and goddesses, that Conon has really done me the wrong for which I sue him, that he gave me blows, that my lip was cut open, and that I was compelled to have it sewed up, and that I am prosecuting this action for the outrage which I have suffered. As I swear truly, so may I prosper, and never thus be injured again; if I am forsworn, may I utterly perish, I and all I possess or ever may possess! But I am not forsworn; though Conon should burst with calumny. I pray you then, O Athenians, as I have shown you all the grounds on which my case rests, and confirmed them by a solemn oath—I pray you to feel on my behalf the same resentment against Conon, as any one of you would have felt in his own case. Do not suppose you are unconcerned in an injury, which might be done to any other man; but, whosoever be the sufferer, assist him, and give him redress; and look with abhorrence on these persons, who are bold and reckless before the commission of offences, and, when they are called to account, impudent and profligate, and who care not for character, appearance, or anything else, if they can only escape punishment. Conon will supplicate and weep. But consider, which is the more to be pitied; a party who has suffered what I have from this man, if I leave court with disgrace and without redress; or Conon, if he is punished? Is it for your advantage to license battery and outrage, or is it

[1] *I.e.* the oath which he now puts in evidence; the substance of which is contained in the challenge read to the jury. To prevent the defendant gaining any advantage by his own challenge, the plaintiff shows, that he had given a similar challenge to the defendant, and that it was refused. See vol. iii. page 383.

not? I should think, not. Then remember, if you let him off, there will be many like him; if you punish him, fewer.

I might say a good deal, men of Athens, about the services which I have rendered, and which my father rendered during his lifetime in the trierarchy, in the army, and the performance of other state duties; and I could show that the defendant and his sons have rendered no such service. But my allowance of water is not sufficient, nor are these the questions now. For granting that we were indisputably more base and worthless even than our opponents, surely we are not to be beaten or insulted.

I am not aware that I need say anything more, as you seem fully to understand the case.

THE ORATION AGAINST CALLICLES.

THE ARGUMENT.

The plaintiff Callicles and the defendant were neighbouring farmers in a mountainous part of Attica. Their grounds were separated by a public road. Callicles brings this action for a nuisance committed by the defendant by the stoppage of a watercourse, which used (as he alleges) to carry the mountain drainage through the defendant's land; but, having been dammed up and diverted into the road by the defendant, had overflowed his (the plaintiff's) land. The defendant, who addresses the court in the following speech, contends, that the natural bed of the stream was in the road, and not upon his land; and that the wall or embankment which Callicles complained of was lawfully erected on his own boundary to protect it from inundation. In proof of this he shows—that his father had put up the inclosure fifteen years before his death, and neither the father of Callicles, nor Callicles himself, nor any of the neighbours, had attempted to interrupt him, or made any objection or complaint, either during his father's lifetime, or afterwards until the bringing of the present action. An inspection of the locality would show that the inclosed land was not a watercourse; for it was planted with vines, figs, and other fruit-trees; and it contained also a family burial-ground. The stream did not come to the defendant from a neighbour's land, nor did it pass from him to a neighbour's land; it flowed down the road both above and below him; therefore it was absurd to contend that it ought to be diverted from the road between those points. If the defendant, at the instance of Callicles, suffered the stream to pass over his ground, he would be obliged to divert it into the road again, or else the neighbour below would have a right of action against him. Every adjacent land-owner had a right to

protect himself against the flood by a wall or embankment. Callicles himself had exercised this right; only he had exceeded his lawful powers by encroaching on the road. The flood complained of by Callicles was a misfortune, by which others had suffered as well as he, but no one else had thought of going to law about it. The actual damage sustained by Callicles was very slight; his real object in bringing this vexatious action was to drive the defendant out of the neighbourhood, and get possession of his land, which he had been for some time plotting to do.

Men of Athens, there is (I am sure) no greater nuisance than a bad and covetous neighbour; which it has been my lot to meet with. For Callicles, having set his heart upon my land, has worried me with litigation. First he got his cousin to claim it from me; but I proved that claim to be false, and defeated their attempt; then he procured two awards against me for non-appearance, one in an action at his own suit for a thousand drachms, the other in an action brought at his instigation by Callicrates, his brother, who is here in court. I beseech you all to hear me with attention, not because I am any speaker, but that you may learn by the facts, how groundless the action is.

One fact alone, men of Athens, is an answer to all they say. My father built the wall round this land, almost before I was born, in the lifetime of Callippides, their father, and then his neighbour, (who surely knew the circumstances better than they do,) and when Callicles was grown up and living at Athens. In all these years no one ever came to complain or object; though of course it rained then as often as it does now. No one made any opposition at the time, on the pretence that he was injured by my father's fencing his own land; no one even warned him not to build, or protested against it, although my father survived more than fifteen years, and Callippides, their father, as many. Surely, Callicles, when you saw the watercourse stopped, you might have gone and complained to my father directly, and said, "Tisias, what are you about? Stopping the watercourse? Our land will be flooded." Then, if he had desisted, there would have been nothing unpleasant between you; had he disregarded your remonstrance, and any mischief happened, those who were present at the interview would have been your witnesses. And you ought further to have satisfied all men of the existence of a watercourse, that you might have proved

my father to be a wrongdoer, not merely called him one, as you do now. But such a thing was never thought of. If it had been, you would not have got an award for non-appearance, as you have against me, nor have gained anything by your sharp practice; for if you had brought a witness then, and appealed to his testimony, he would now have proved from his own knowledge all the circumstances of the case, and confuted these ready witnesses of yours. But I suppose, you despised a young and inexperienced person like me. Fortunately, men of Athens, their own acts are the strongest evidence against them; for how comes it, they none of them ever protested or complained, or made the slightest objection, but submitted contentedly to the injury?

I think I have completely answered their case already; but I will go to the other points, and show you, men of Athens, still more clearly, that my father had a right to inclose the land, and these men's statements are false.

The land is admitted by the plaintiff to be ours; and this being so, if you could see the place, men of Athens, you would know at once there is no ground for this action. I wished, on this account, to refer the case to impartial men who knew the premises; but my opponents were unwilling, though now they say otherwise. I will make it clear to you in a moment; but pray, men of Athens, attend.

Between their land and mine is a road. A mountain surrounds both, from which streams of water run down partly into the road, partly on the lands. And the water falling into the road sometimes, where it finds a clear passage, is carried straight down the road, but, where it meets with any impediment, it then of necessity overflows upon the lands. It so happened, men of the jury, that the land in question was inundated after a flood. My father was not then the owner, but a town-bred man, who disliked the place. By his neglect, the water overflowed several times, damaged the land, and was making further inroad. My father, (as I learn from good authority,) seeing this, and also that the neighbours encroached and walked over his grounds, built this wall on the border. I have witnesses who speak to this of their own knowledge, and circumstantial evidence stronger than any testimony. Callicles says, I injure him by obstructing the watercourse; but I will show that it is private

ground, and not a watercourse. If it were not admitted to be our property, perhaps we might have been trespassers by building on a public highway; but this they don't dispute; and there are trees planted on the ground, vines and figs. Who would plant them in a watercourse? No one. Or who would bury his ancestors there? No one, I guess. Yet both these things have been done, men of the jury. The trees were planted before my father built the wall; and the tombs are old, and made before we had the property. This being so, what stronger argument can there be, men of Athens? The facts are convincing. Take all the depositions, and read them.

[*Depositions.*]

Men of Athens, you hear the depositions. Do they not expressly say, that the ground is full of trees, and has some tombs, and other things commonly found on private grounds; and also that it was inclosed in the lifetime of their father, without any opposition from them or the other neighbours?

We must look, men of the jury, into the other statements of Callicles. And first consider, whether you ever saw or heard of a watercourse by the side of a road. I believe, in the whole country there is none. For why should a man make a drain through his own land for water, that would pass through the public road? Which of you, I ask, in town or country, would receive water that passes through the highway into his own house or farm? On the contrary, do you not, when it forces its way, dam or fence it off? Yet the plaintiff requires me to receive the water out of the road upon my own land, and then, when it has passed beyond his, to turn it back into the road. But, if so, the next adjoining landowner complains; and of course with the same right as the plaintiff. Again, if I am afraid of diverting the water into the road, I should hardly venture to turn it into a neighbour's land. For, when I am sued for a fixed penalty, because it overflowed the plaintiff's land from the road, what must I expect from those persons, who suffer by an inundation from my grounds? Then if, having received the water, I may not drain it off either into the road, or into private ground, what, in heaven's name, am I to do, men of the jury? Surely Callicles won't force me to drink it up.

For these and other annoyances which they have inflicted on me, instead of receiving, I must be content with not giving, satisfaction. I allow, men of the jury, if there had been a watercourse immediately beyond me, I might have been wrong in stopping the water. There are on some estates acknowledged watercourses, which (like the gutter-drains from houses) the first landowners receive, then pass to the next, and so on. But this no one either transmits, or receives from me. How then can it be a watercourse? Many persons ere now, I take it, have (for want of care) suffered by an inundation; and so has the plaintiff. But the worst of it is; he, when his land is overflowed, brings up huge stones and makes a dam; yet, because the same accident happened to my father's land and he inclosed it, it is a grievance, and Callicles brings an action against me. I can only say, if all persons who are injured by the flowing of water in that country are to sue me, I must have an immense increase of fortune to bear it. But these men are very different from the rest. These men have sustained no damage, as I will presently show you, while many of the others have been greatly injured; and yet these alone have ventured to sue me. They had indeed less cause than any; for whatever they have suffered has been through their own fault, although they shift the blame vexatiously on me; while the rest, however negligent they may have been, are at all events chargeable with nothing of this kind. But, that I may not crowd too many things together, take the depositions of the neighbours.

[*Depositions.*]

Is it not shameful, men of the jury, that, while no complaint is made by these persons, who have been so much injured, or by any of the other sufferers, but they all submit to misfortune, the plaintiff gets up a vexatious action against me? That he has himself committed an offence, first, in narrowing the road, by bringing his wall beyond the boundary, in order to get his trees within the road—and secondly, in throwing rubbish into it, by which it has been both narrowed and raised—I will presently prove by witnesses. But I wish now to show you, that, though he sues me for so high a penalty, he has sustained no loss or damage worth mentioning.

Before these malicious proceedings, their mother and mine were acquainted, and visited each other, as you might expect they would, being country neighbours, and their husbands being acquainted when alive. My mother having called upon theirs, she told her the distress she was in, and showed what had happened. Thus I learned the story. And I will tell you what my mother said, men of the jury: so may I prosper, as I speak the truth. She told me what she saw and heard from their mother; that some barley got wet, about four bushels, which she saw being dried; and less than a bushel of barley-meal; and a jar of oil, she said, had fallen down, but was not at all damaged. Such, men of the jury, is this accident, for which I am sued for a fixed penalty of a thousand drachms. They can hardly charge me with the building up of an old wall, which neither fell down nor was injured. Admitting therefore that I was the cause of the whole misfortune, these are the things that got wet! However, as my father had a right to inclose his land, and these men for so long a time never complained, and others, who have been great sufferers, lay no blame on me, and it is the common practice with you all, to drain water from your houses and grounds into the road, not to take it in from the road; what need of further argument? These facts show that the charge against me is groundless, and they are not damaged as they allege. To prove that they threw the rubbish into the road, and narrowed it by advancing their wall, and also that I tendered an oath to their mother, and challenged them to let mine swear the same; take the depositions and the challenge.

[*The depositions. The challenge.*]

Can you conceive a more impudent set of pettifoggers? Having pushed forward their own wall, and raised the road, they sue other persons, and for a penalty of a thousand drachms, when their loss amounts not to fifty! Consider, men of the jury, how many persons in the country have suffered by floods, at Eleusis and elsewhere. Heaven and earth! They never dream of recovering the damage from their neighbours. And I, who have cause to complain of the road being narrowed and raised, remain quiet; but these men, you see, are so audacious as to harass with law the persons they have

injured. Surely, Callicles, if you may inclose your land, we may ours. If my father by inclosing injured you, you likewise injure me by inclosing now. For it is clear that, if the water be obstructed by large stones, it will come back to my land, and may by a sudden inroad throw down the wall. However, I blame not the plaintiff for that, but submit to the misfortune, and shall endeavour to protect my own property. I think that he acts prudently in fencing his ground; but, in going to law with me, I hold him to be thoroughly wicked and infatuated.

Be not surprised, men of the jury, at the eagerness of the plaintiff, or his daring to bring a false charge now. For before, when he persuaded his cousin to claim my land, he produced a forged agreement. And now he has himself obtained an award against me for non-appearance in another similar action, in which he made Callarus, one of my slaves, defendant. For, among other tricks, they have hit upon this device: they bring the same action against Callarus. Now what servant would inclose his master's land without orders? Having no other charge against Callarus, they sue him on account of the wall, which my father built above fifteen years before his death. And, if I will let them have my land by purchase or exchange, Callarus does no wrong; but if I don't choose to part with my own, Callarus has deeply injured them, and they look out for an arbitrator to adjudge the estate to them, or some compromise by which they may obtain it. Men of the jury, if designing knaves and pettifoggers are to have their way, I might as well have held my tongue; but if you detest people of that sort, and decide according to justice, then, as Callicles has suffered no loss or injury, either from Callarus or my father, I have said enough already. To prove to you, that he got his cousin to aid him in his design against my estate, and has now himself procured an award in this other action against Callarus, to spite me because I set a value upon the man, and has brought a second action also against Callarus; the clerk shall read the depositions.

[*Depositions.*]

I implore you, men of the jury, do not leave me to the mercy of these persons, when I have done no wrong. I care

not so much for the penalty, hard as that is on a man of small fortune; but they are driving me altogether out of the township by their calumny and persecution. To prove that I had done no wrong, I was willing to refer the matter to fair and impartial men, who knew the circumstances; and also to swear the customary oath; for that, I thought, would be most convincing to you, who are yourselves upon oath. Please to take the challenge and the remaining depositions.

[*The challenge. The depositions.*]

THE ORATION AGAINST DIONYSODORUS.

THE ARGUMENT.

DARIUS and Pamphilus lent 3,000 drachms to Parmeniscus and Dionysodorus on a ship, which was to sail from Athens to Egypt and bring home a cargo of corn. Upon its safe arrival in the port of Piræus the principal and interest were to be repaid. There was an express stipulation, that the vessel was not to discharge her cargo at any intermediate port, which indeed was contrary to the Athenian law; and for a breach of the agreement the borrowers bound themselves to pay a penalty of double the amount.

Parmeniscus went out with the ship to Egypt, purchased corn, and brought it on his way home as far as Rhodes; but there receiving a message from his partner, that the price of corn at Athens had fallen, owing to a large importation from Sicily, he sold his cargo in Rhodes, and continued for two years to carry on trade, going from Rhodes to Egypt and back, but never coming to Athens pursuant to his agreement with Darius and Pamphilus. Darius then applies to Dionysodorus, who had remained at Athens, reminds him of his liability, and demands payment of what was due under the agreement. Dionysodorus offers to pay the principal with interest calculated as far as Rhodes, alleging that the ship had been too much damaged on her voyage to proceed to Athens, that the other creditors had been contented to take interest to Rhodes only, and that by the terms of their contract the lenders were not entitled to recover anything unless the vessel came safe to the port of Piræus. To this Darius replied, that he had nothing to do with any arrangement entered into with other creditors; that it was manifest the ship had suffered no serious damage, or she would not have been employed again in trading between Rhodes and Egypt; and, with respect to the clause exonerating the borrowers in case the ship did not come safe to Piræus, that only applied in the event of a total loss, and not to a failure to return by the fraud or neglect of the borrower himself. If the ship

were really lost, what did they mean by offering interest as far as Rhodes? They were liable to pay the whole or nothing.

These arguments did not convince Dionysodorus, or at least did not induce him to change his mind. A proposal was made by Darius to refer the dispute to the arbitration of commercial men; but, this being rejected, the present action was brought to enforce the performance of the contract. Darius, whose name appears only from the argument of Libanius, addresses the court in the following speech written for him by Demosthenes; and at the close of it calls upon Demosthenes himself to come forward as his advocate; a thing which was not so usual in private causes.

I AM a partner in this loan, men of the jury. We who have engaged in maritime trade, and put our money in the hands of other people, know very well, that the borrower has the advantage over us in every respect. He receives our hard cash without any mistake, and leaves us a bit of writing and a small scrap of paper that cost two farthings, containing his covenant to do what is right. We do not promise to advance our money, but advance it to the borrower immediately. On what then do we rely, and what security do we get when we part with our money? We rely on you, men of the jury, and on your laws, which declare that whatever agreement a man enters into voluntarily with another shall be valid. It seems to me however, that neither laws nor agreements are of any use, if a person who receives money is not honest in his principles, and does not either fear you or respect the rights of the lender. Dionysodorus the defendant does neither of these, but has arrived at such a pitch of audacity, that after borrowing three thousand drachms from us upon his ship, on the condition that his ship should return to Athens, and when we ought to have got back our money in the season of last year, he carried his ship to Rhodes, unladed his cargo there and sold it in violation of the agreement and of your laws; from Rhodes again he despatched the ship to Egypt, and from thence to Rhodes, and even to this day he has never paid us who lent him our money at Athens, or produced to us our security; he has now for two years been making use of our funds, keeping the loan and the trade and the ship that was mortgaged to us, and notwithstanding this he has come into court, with the intention, I presume, of mulcting us with the sixth part of the damages, and putting us in the lodging, besides cheating us out of our money. I therefore, men of

Athens, beseech and implore you all to give me redress, if you think I have been wronged. Let me first explain to you how the loan was contracted: that will best enable you to follow the case.

This Dionysodorus, men of Athens, and his partner Parmeniscus came to us last year in the month of Metageitnion, and said they wanted to borrow money on their ship, on the terms that she should sail to Egypt and from Egypt to Rhodes or Athens, and they engaged to pay interest to either of those ports, as the case might be. We replied, men of the jury, that we would not lend to any other port than to Athens, and so they agree to return here, and these terms being arranged, they borrow three thousand drachms from us upon the ship, on the voyage out and home, and entered into a written agreement to that effect. In the agreement Pamphilus, who is here in court, was set down as the lender: I however, though not named, lent the money jointly with him. And first he shall read you the agreement.

[*The agreement.*]

In pursuance of this agreement, men of the jury, Dionysodorus the defendant and his partner Parmeniscus sent off the ship from Athens to Egypt. And Parmeniscus sailed with the ship; Dionysodorus stayed at Athens. For you must know, men of the jury, these men were agents and confederates of Cleomenes, the governor of Egypt, who, from the time that he received the government, has done immense mischief to your state, and still more to the rest of the Greeks, by buying up corn for resale and keeping it at his own price;[1] and these men have been acting in league with him. It was done in this way. Some of them shipped off cargoes from Egypt, while others went out in the trading vessels, and others stayed at Athens and disposed of the consignments. Then those who stayed here sent letters to those abroad advising them of the state of the market, so that, if corn were dear with you, they might bring it here; if it became cheaper, they might sail to some other port. It was chiefly owing to such letters and confederacies, men of the jury, that the price of corn was raised. Well; when

[1] Pabst—"er Getreide zum Wucher aufkaufte, und wieder verkaufte, und so den Preis desselben willkührlich bestimmte."

these men sent off this ship from Athens, they left the price of corn pretty high; and therefore they submitted to the clause in the agreement, binding them to sail to Athens and to no other port. Afterwards however, men of the jury, when the Sicilian vessels had arrived, and the prices of corn were falling, and their ship had got to Egypt, the defendant instantly despatches a person to Rhodes to inform his partner Parmeniscus of the state of things here, knowing perfectly well that his ship would be obliged to touch at Rhodes. The result was that Parmeniscus, the defendant's partner, having received his letter of advice, and learned the state of the corn-market at Athens, unships his corn at Rhodes and sells it there; and thus, men of the jury, they acted in defiance of the agreement, and of the penalty to which they had bound themselves in case of any breach of the agreement, and in defiance also of your laws, which require ship-owners and merchants to sail to the port which they have agreed to, and subject them, in default of their so doing, to the severest punishments.

As soon as we were informed of what had taken place, we were not a little amazed; we went to this man, who was the architect of the whole plot, and signified (as was natural) our displeasure at his conduct, complaining that, when we had expressly provided in the agreement that the ship should sail to no port but Athens, and we had lent our money upon such condition, he had exposed us to suspicion with persons who might choose to accuse us and say that we had been parties to the importation of corn to Rhodes, and complaining also that he and his partner, in spite of their agreement, had not brought their ship home to your port. Finding that we gained nothing by talking to him about the agreement and our rights, we desired him at all events to pay us our principal with the interest originally promised. The defendant treated us with the utmost insolence: he said he would not pay the interest reserved in the agreement; "but"—said he —"if you are willing to be paid in proportion to the voyage performed, I will give you"—says he—"the interest to Rhodes; but I cannot give any more." Thus did he make law for himself, instead of complying with the terms of the agreement. We refused to accept his proposal, considering that, if we did so, it would be an admission that we had been

concerned in the importation of corn to Rhodes. Upon this he became still more pressing, and he came to us with a number of witnesses, and said that he was ready to pay us the principal money and the interest as far as Rhodes; not that he meant to pay us any the more for that, men of the jury, but thinking that we should be unwilling to receive the money on account of the suspicion which it would give rise to.[1] This appeared from the result. Some of your fellow-citizens, men of Athens, who were accidentally present, advised us to accept what was offered, and go to law for what was in dispute, but not to acknowledge the taking of interest to Rhodes, until after the case had been tried. We assented to this suggestion, not that we were ignorant, men of the jury, of our rights under the agreement, but because we deemed it better to lose something and make a concession, so as not to appear litigious. When the defendant however saw that we were closing with his offer—"Cancel[2] the agreement then"—says he. "We cancel the agreement! Nothing of the kind. Whatever money you pay, we will consent in the banker's presence to annul the agreement as to that; but we will not cancel it altogether, until we have tried the question in dispute. For what ground shall we have to rely upon in a contest at law, whether we are to go before an arbitrator or a jury, if we cancel the agreement, which furnishes the means for recovering our rights?" To this effect we spoke, men of the jury; we pressed upon Dionysodorus, that he should not seek to annul or disturb the agreement, which both he and his partner admitted to be valid, but should pay us so much of the money as he admitted to be due, and leave the disputed claim, the amount of which was certain, to be decided by one or more commercial men, as he liked best. To nothing of the kind would Dionysodorus hearken; but, because we did not choose to cancel the agreement altogether and take what he required us, he has been for two years retaining and making use of our capital; and what is the most shameful thing of all, men of the jury, he himself gets

[1] Pabst—"wegen der angegebenen Gründe."

[2] Literally—"take up:" *i.e.* out of the hands of the depositary, who held it for both parties so long as it remained in force. The "taking up" would be equivalent to a cancelling or acknowledgment of satisfaction with us.

maritime interest from other people out of our money, which he lends not at Athens or to Athens, but to Rhodes and Egypt, while to us, who lent money to your port, he refuses to pay anything that is due.

To prove the truth of my statements, he shall read you the challenge which I gave him in this matter.

[*The challenge.*]

We gave this challenge, men of the jury, to Dionysodorus repeatedly, and exposed the challenge to view for many days. He said we must be downright simpletons if we supposed him to be so thoughtless as to go before an arbitrator, who (it was evident) would condemn him to pay the debt, when he might go into court with the money in his purse, and, if he was able to humbug the jurors, he might go away with another person's money, if not, he would pay it then instead of paying it sooner. He talked in this style like a person who had no reliance upon justice, but wished to try what sort of people you were.

You have heard, men of the jury, what Dionysodorus has done. During the recital of these facts you must have been wondering, I take it, at his audacity, and what he could possibly have relied upon in coming to court. Audacity it is indeed, when a man, having borrowed money from the port of Athens, and having made an express agreement that his ship shall return to your port, or else that he will pay double the amount, neither has brought his ship home to the Piræus, nor pays the lenders their money; and when he has landed his cargo at Rhodes and sold it there, and notwithstanding all these acts he dares to look you in the face! Now hear what he has to say to this. He says that his ship was disabled on her voyage from Egypt, and that he was therefore compelled both to touch at Rhodes and to unlade his corn there. And for proof he alleges, that he chartered vessels from Rhodes and shipped off some of his goods to Athens. That is one part of his defence. Another is this—He says that certain other creditors have consented at his request to take interest as far as Rhodes, and it would be hard if we did not consent to the same terms as they did. Thirdly again he says, that the agreement binds him to pay the money if the ship arrives safe, and that the ship has not arrived safe in

Piræus. To each of these pleas, men of the jury, hear my just reply.

In the first place, when he says that the ship was disabled, I think his falsehood is apparent to you all. For, if the ship had really sustained this disaster, it would neither have got safe to Rhodes nor have been fit for sea afterwards. She appears however to have got safe to Rhodes, and again to have been despatched from Rhodes to Egypt, and at this very time she is sailing everywhere except to Athens. Is it not monstrous that, when he has to bring the ship home to the Athenian port, he says she was disabled, but, when he wants to unlade his corn at Rhodes, then the same ship appears to be seaworthy?

"Why then"—he asks—"did I hire other vessels and tranship my cargo and send it off to Athens?" Because, O Athenians, the defendant and his partner were not owners of the whole cargo, but the merchants who went out were obliged, I presume, to send their goods to Athens in other vessels, when these men put an end to the voyage before the ship had reached her destination. Of those goods however which belonged to themselves they did not ship the whole to Athens, but selected such as had risen in price. For, when you hired other vessels as you say, why, instead of transhipping the whole cargo, did you leave the corn in Rhodes? They did so, men of the jury, because it was for their advantage to sell the corn in Rhodes; for they heard that the price of corn had fallen here; but they shipped off to you the other goods, from which they expected to get a profit. Therefore, Dionysodorus, when you talk of the hiring of the vessels, you give no proof of your ship having been disabled, but only that it was to your own advantage.

Upon these points I have said enough. With respect to the creditors who, they say, have consented to receive from them the interest to Rhodes, we have nothing to do with that. If any man has forgiven you any part of a debt, he that you have made terms with has sustained no wrong. We however have not remitted anything to you, nor consented to your touching at Rhodes. We consider the agreement to be in force, anything to the contrary notwithstanding. What says the agreement, and where does it require you to sail? From Athens to Egypt and from Egypt to Athens; in de-

fault of so doing, it binds you to pay double the amount. If you have performed this condition, you have done no wrong; if you have not performed it, and not brought your ship back to Athens, you are liable to the penalty in the agreement; for this is an obligation imposed on you, not by any other person, but by yourself. Show then to the jury one of two things, either that the agreement is not valid, or that you are not bound to do everything in accordance with it. If certain persons have excused you anything, and consented for some reason or other to take interest as far as Rhodes, does that exempt you from liability to us, with whom you have committed a breach of your agreement, in landing at Rhodes? I should hardly think so. The jury are not now deciding upon terms consented to by others, but upon a contract entered into by you yourself with us. It is plain indeed to all of you, that even the remission of the interest, supposing it to have taken place, as these men say, has been to the advantage of the creditors. For those who lent their money to these men on the outward voyage from Egypt to Athens, when they arrived at Rhodes, and these men put into that port, could be no losers, I imagine, by remitting further interest, and receiving their money in Rhodes, and then employing it again in a run to Egypt. On the contrary, it was much more profitable to them than commencing a new voyage to Athens. For the passage to Egypt is speedy, and they had the opportunity of trading twice or three times with the same money; whereas they must have passed the winter here, and waited for the season of navigation. The other creditors therefore have been gainers, and have not remitted anything to these men: with us however it is not a question only of the interest; for we are not able to recover even our principal.

Don't listen then to this man, when he attempts to cajole you, and cites his transactions with other creditors as examples for us; but refer him to the agreement, and to the rights which spring out of the agreement. I have yet to show you how this matter stands, and the defendant relies upon the same thing, saying that the agreement only requires him to pay the debt if the ship arrives safe. I likewise say that this should be so. But I would be glad to ask you yourself, Dionysodorus, whether you are speaking of the ship as having been lost, or as having arrived safe. If the ship has been

wrecked and lost, why do you dispute about the interest, and ask us to receive interest to Rhodes? For in that case we are not entitled to get either interest or principal. But, if the ship is safe and not lost, why do you not pay us the money which you agreed to pay? From what, men of Athens, can it be most clearly ascertained that the ship has arrived safe? Mainly, from the very fact that she is out at sea, and not less clearly from the statements of these men themselves. For they ask us to receive payment of the principal and a portion of the interest, implying that the ship has arrived safe, but not performed her whole voyage. Consider, men of Athens, whether we are acting according to the terms of the contract, or whether our opponents are, who, instead of sailing to the port agreed upon, have sailed to Rhodes and Egypt, and who, when the ship has been saved and not lost, expect to get an abatement of the interest, notwithstanding that they have broken their agreement, and have themselves made a large profit by their carriage of corn to Rhodes, while they have been keeping and making use of our money for two years. The proceeding is indeed most strange. They offer to pay us our principal, as if the ship had arrived safe, but propose to deprive us of the interest, as if she had been lost. The agreement however does not say one thing about the interest of the loan, and another about the principal, but our rights and means of recovery are the same for both. Please to read the agreement again.

THE AGREEMENT.

"From Athens to Egypt and from Egypt to Athens."

You hear, men of Athens. It says—"from Athens to Egypt and from Egypt to Athens." Read the remainder.

THE AGREEMENT.

"If the ship arrives safe in Piræus."

Men of the jury, it is a very easy thing for you to give judgment in this cause, and there is no need of many words. That the ship has been saved and is safe, is admitted by our opponents themselves; for otherwise they would not have offered to pay the principal debt and a portion of the interest. She has not been brought back to Piræus. Therefore we the creditors say we have been wronged, and for this we sue,

because the ship did not return to the port agreed on. Dionysodorus says he has done no wrong on this very account, because he is not bound to pay the whole interest, as the ship did not return to Piræus. But what says the agreement? Nothing like what you say, Dionysodorus. The agreement declares that, if you do not pay back the money lent with interest, or if you do not deliver up the security entire, or if you violate the agreement in any other respect, you shall be liable to pay double the amount. Read me that clause of the agreement.

THE AGREEMENT.

"And if they do not deliver up the security entire, or if they do anything contrary to the agreement, they shall be bound to pay double the amount."

Have you ever delivered up the ship from the time that you received the money from us, acknowledging as you do yourself that she is safe? Or have you ever from that time returned to the Athenian port, the agreement expressly declaring that you shall bring back your ship to Piræus and deliver her up to the creditors? For again, men of Athens, observe the extravagance of his statement. The ship was disabled, as he says, and on that account he took her into the port of Rhodes. Well; after that she was repaired, and became fit for sea. How comes it then, my good friend, that you sent her off to Egypt and other ports, but to this very day have not sent her to Athens to us your creditors, to whom the agreement requires you to deliver the ship entire, although we requested and challenged you to do so repeatedly? The fact is, you are so courageous, or rather so impudent, that, although by the agreement you are liable to pay us double the amount, you do not choose to pay even the accruing interest, but command us to accept interest to Rhodes, as if your command ought to be of more force than the agreement; and you dare to say that the ship did not arrive safe at Piræus; for which, if you had your deserts, you would be sentenced to death by the jurors. For whose fault is it, men of the jury, that the ship has not come safe to Piræus? Are we to blame, who lent our money expressly on a voyage to Egypt and to Athens, or Dionysodorus and his partner, who, having borrowed upon these terms, that the ship

should return to Athens, took the ship to Rhodes notwithstanding?

That they did this voluntarily and not of necessity, is clear from many circumstances. For, if the occurrence was really involuntary and the ship was disabled, surely, after they had repaired the ship, they would not have let her for a voyage to other ports, but would have sent her off to Athens, and made amends for the involuntary accident. As it is, however, instead of making amends, they have greatly aggravated their original offence, and have come here to defend this action in a spirit of mockery, as if it would be at their own option, in case of a verdict against them, to pay only the principal and interest. I trust that you, men of Athens, will not allow people of this description to have their own way; that you will not let them ride on two anchors, in the hope that, if they succeed, they shall keep the property of others, and, if they are not able to impose on you, they will but pay the bare amount of their debts. No; condemn them to pay the penalty under the agreement: for it would be shameful, when these men have bound themselves in a penalty of double the amount, in case they commit any breach of their contract, that you should be more lenient to them; especially when the injury affects you no less than it affects us.

The facts of the case are thus brief and easy to be remembered. We lent to this Dionysodorus and his partner three thousand drachms on a voyage from Athens to Egypt and back; we have not received payment either of principal or interest; they have kept possession and had the use of our money for two years; they have not even to this day brought home their ship to your port or delivered it to us. The agreement declares that, if they do not deliver to us the ship, they shall pay double the amount, and that the debt may be recovered from either one or both of them. These are the grounds upon which we have come into court, seeking to recover our money through your assistance, as we cannot get it from these men themselves. Such is our case, men of the jury. Our adversaries, while they confess that they borrowed the money and have not paid it, contend that they are not bound to pay the interest mentioned in the agreement, but only that to Rhodes, which neither was contracted for nor has been consented to by us. Perhaps, men

of Athens, if we were trying the case in a Rhodian court, these men might have got the better of us, by reason of their having carried corn to the Rhodians and having sailed to their port. As, however, we are before an Athenian tribunal, and have entered into an agreement for a voyage to your port, we hardly expect that you will give the advantage to persons who have wronged you as well as ourselves.

And besides, men of Athens, do not forget that, though you are sitting in judgment only upon one cause, you are making law for the whole port of Athens; and a large number of commercial people are standing by, to see how you decide this question. For if you hold that contracts and mutual engagements ought to be enforced, and treat with rigour those who violate them, the lenders of money will be more ready to part with what they have, and by that means the trade of your port will be increased. But if ship-owners, after entering into written contracts to sail to Athens, shall be at liberty to carry the ship to other ports under the plea that she has been disabled, and under any other such pretence as these which Dionysodorus sets up, and to apportion the interest according to the length of the voyage which they say they have performed, instead of paying it according to the terms of their agreement, there will be nothing to prevent all contracts of loan being dissolved. For who will like to part with his money, when he sees that written agreements are of no force, while effect is given to pleas like the present, and the excuses of wrong-doers prevail over right and justice? Never allow such a thing, men of the jury! It is not expedient either for the mass of the people or for the mercantile class, who are a most useful body of men both to the public at large and to those who have dealings with them, and therefore you ought to be careful of their interests.

I have said all that lay in my power, and I now call upon one of my friends to speak in my behalf. Come forward, Demosthenes.

THE ORATION AGAINST EUBULIDES.

THE ARGUMENT.

Euxitheus, the speaker, appeals from the judgment of the townsmen of Halimus, who, on a revision of their civic register, had struck his name out of the list, and thereby degraded him from his rank as an Athenian citizen. Eubulides, his nominal opponent, was the demarch, or prefect of the township; who had presided at the revision, and on whom devolved the duty of supporting the judgment on appeal. The subject of this oration is so fully explained in the first appendix to volume iv, that little requires to be said here. The question at issue is, whether Euxitheus was by birth a citizen of Athens. The proof of the affirmative lay on him; and accordingly he produces the testimony of his relations, and also members of his township, clan, and family, and a variety of circumstantial proofs, to establish the legitimacy of his birth and the citizenship of both his parents. There had been a prejudice against him, because his father spoke with a foreign accent or dialect, and because his mother had been a nurse and sold ribbons in the market. His father spoke a less pure Attic, owing to his having been taken prisoner in war, and having lived for many years abroad. On his return to Athens he had been received by his friends and restored to his rights without any opposition. His mother's mean occupation was the consequence of poverty, and afforded no proof of her being an alien. A cabal however had been got up against him in the township, partly on these grounds, and partly from other causes, which had made him personally unpopular. Eubulides, in particular, had been stimulated by malicious motives to procure his expulsion, and had adopted the most nefarious means to accomplish that object. As the result of the trial was a matter of the greatest importance to the appellant, (for, if the verdict went against him, he would have to be sold for a slave,) he makes every exertion to establish his case, to deprecate prejudice, and to excite the favourable sympathies of the jury. He concludes with a declaration that, in the event of an adverse verdict, he shall commit suicide, to ensure at least a burial by his relations in his own country.

As Eubulides has made many false charges against me, and uttered calumnies which are neither becoming nor just, I shall endeavour to show you, men of the jury, by a fair statement of the truth, both that I am entitled to the civic fran-

chise, and that I have been shamefully treated by this man. I pray you all, men of the jury, I entreat and implore you, that, considering the great importance of the present trial and the disgrace and ruin which attend conviction, you will hear me, as you have heard my opponent, in silence; that you will listen to me, if possible, with more favour than to him, (for you ought to be more favourable to those who stand in peril,) but, at all events, with equal favour.

With respect to you, men of the jury, and with respect to my right of citizenship, I am hopeful and confident of success; what alarms me is the occasion, and the strong feeling which incites the people to strike names off the register: for many have with justice been expelled from all the townships; we who have been the victims of cabals suffer by this prejudice; we have to repel the charges made out against others rather than those which affect ourselves, and therefore we cannot help being in great alarm.

Notwithstanding this disadvantage, however, I shall proceed at once to declare to you what I consider to be the correct view even upon this part of the question. I think you ought to deal severely with persons proved to be aliens, if they have clandestinely and intrusively partaken of your civil and religious rights, without having obtained or petitioned for your consent: on the other hand, you ought to succour and to rescue those who have been unfortunate, and who prove themselves to be citizens; for you should consider how extremely hard our case will be, when, though we ought to be seeking redress as well as yourselves, we are placed in the rank of punishable offenders, and suffer in common with others on account of your anger at the thing itself.

I should have thought, men of the jury, that it became Eubulides, and indeed all who appear as accusers in support of a vote of exclusion, to state only what they know for certain, and not to bring up hearsay on a trial of this kind. Such a course has ever been deemed the height of injustice, insomuch that the laws do not even allow hearsay evidence, not even upon trifling charges; and this is reasonable; for, when people pretending to knowledge of facts have ere now been proved guilty of falsehood, what credence can be given to statements not within the speaker's own knowledge? And when no man is allowed, even where he makes himself

responsible, to damage another by evidence which he says he has heard, how can it be right for you to believe a person who speaks without responsibility? Since my opponent, notwithstanding his acquaintance with the laws, has taken every unfair advantage in the conduct of this prosecution, it is necessary that I should begin by explaining to you the outrageous manner in which I was treated among my fellow-townsmen. I entreat you, men of Athens, not to be prejudiced against me, and not to regard my expulsion by the townsmen as a proof that I am not entitled to the franchise. Had you assumed that the townsmen would be able to do perfect justice, you would not have allowed the appeal to yourselves. As it is, you supposed that something of this sort might occur through jealousy, or through envy or hatred, or on other pretences, and therefore you gave to injured parties a recourse to your tribunal, through which, men of Athens, you have happily saved all those who have suffered injustice. First then I will explain to you the manner in which the division took place at the meeting of townsmen; for I consider it is speaking relevantly to the issue, to show what one has suffered contrary to the decree through the oppression of a cabal.

This Eubulides, men of Athens, as many of you are aware, indicted the sister of Lacedæmonius for impiety, and did not get a fifth part of the votes. Because upon that trial I gave evidence unfavourable to him, but in accordance with truth, he became my enemy and commenced a persecution of me. And being a member of the council, men of the jury, and having authority to administer the oath, and having the custody of the documents, out of which he called up the townsmen, what does he do?—in the first place, when the townsmen had assembled, he wasted the day in making speeches and drawing up resolutions. This was not done by accident, but in furtherance of his design against me, that the division in my case might take place as late in the day as possible; and he accomplished this. We of the townsmen who took the oath were seventy-three in number, and we began to divide late in the evening, so that, when my name was called on, it was dark, for my name was the sixtieth in the list, and I was the last of those who were called on that day, when the elder members of the township had gone home

to the country; for our district, men of the jury, is five and thirty furlongs from the city, and, as most of the members reside there, the majority of them had gone home; those that remained were not more than thirty, and among them were all the persons whose aid Eubulides had secured. When my name was called, Eubulides jumped up, and poured out a volley of abuse against me, speaking rapidly and with a loud voice, as he did just now. He produced no witness in support of his charges, either from the township or from the general body of the Athenians, but exhorted the townsmen to pass a vote of expulsion. I asked for an adjournment till the following day, on account of the lateness of the hour, and because I had no one there on my behalf, and the thing had come suddenly upon me; and that Eubulides also might have the advantage of preferring any charge that he pleased, and producing any witnesses that he had, and I might be enabled to make my defence before all the townsmen, and produce my relations as witnesses; and I offered to abide by whatever decision they should pronounce in my case. Eubulides however paid no regard to my proposal, but instantly proceeded to take the votes of the townsmen who were present, without either allowing me to make any defence, or giving any definite proof of his charges. The persons who were combined with him jumped up and gave their votes. It was dark; and they received two or three ballot balls each from Eubulides, and put them into the box; of this there is clear proof—for the voters were not more than thirty in number, and the ballot balls, when counted, were more than sixty, so that we were all astounded.

To prove the truth of my statements—that the votes were not taken when all were present, and that there were more ballot balls than voters—I will call witnesses before you. It so happens that I have neither friend of my own nor any other Athenian to be my witness in this matter, because of the lateness of the hour, and because I did not ask any one to attend; but I am obliged to resort to the evidence of those who have injured me. I have drawn up such statements for them as they will not be able to deny. Read.

[*The deposition.*]

I allow, men of the jury, that, if the Halimusians had divided upon every case that day, it would have been reason-

able to go on balloting to a late hour, that they might perform your decree and go about their business. But when there were more than twenty[1] townsmen left, upon whose cases they had to divide on the following day, and the townsmen were obliged anyhow to meet again, what difficulty was there for Eubulides to adjourn to the following day, and take the votes of the townsmen in my case first? The reason, men of the jury, was this. Eubulides well knew that, if a hearing were allowed me, and if all the townsmen were present, and if the votes were rightly taken, the party leagued with him would be nowhere.

How these people came to be leagued against me, I will tell you, if you like to hear it, after I have given an account of my birth. In the meantime what do I consider just, and what am I prepared to do, men of the jury? To show you that I am an Athenian both on the father's and the mother's side, to prove this by the evidence of witnesses whose veracity you will not doubt, and to overthrow the charges and calumnies of my opponents. This is the proper course for me to take. It will be for you, when you have heard my case, if you think that I am a citizen, and have been the victim of a cabal, to deliver me; if you arrive at a different conclusion, to act as in good conscience you are bound. And now to begin.

They have maliciously asserted, that my father spoke a foreign dialect.[2] That he was taken prisoner by the enemy about the time of the Decelean war, that he was sold for a slave and carried to Leucas, that there he fell in with Cleander the actor, and was ransomed and brought home to his relations after an absence of many years—this they have omitted to mention, but have reproached him with his foreign dialect,

[1] Reiske and Auger pronounce this to be inconsistent with what the speaker has said before, (page 1302. 1. orig.) showing (as they suppose) that thirteen cases only, and not twenty, remained. This however is not so. The seventy-three persons present on the first day did not comprise all the townsmen of Halimus, nor include all whose retention on the list was opposed. Every name in the list was called over, but only certain persons were objected to, so as to require a ballot. The twenty cases remaining to be disposed of on the second day were composed (in part at least) of those absent on the first.

[2] Or "with a foreign accent," as Auger has it. Pabst—"er sey ein Fremdling"—which is strange, after Taylor's note, and the distinction drawn by Demosthenes himself a little below between τὸν ξενίζοντα and ξένος, where Pabst translates it right.

as if I ought to perish on account of my father's misfortune. I rather think that this very circumstance will materially help me to establish that I am an Athenian. I will first call witnesses before you, to prove that my father was taken prisoner and redeemed; secondly, that after his return home he received from his uncle the share which came to him from his father's estate; and further, that no one, either among the townsmen, or among the clansmen, or anywhere else, ever charged him (for all his foreign dialect) with being a foreigner. Please to take the depositions.

[*Depositions.*]

Of my father's capture by the enemy, and of his redemption and return to Athens, you have been informed. To prove that he was your fellow citizen, men of the jury—(for such is the real truth)—I will call my relations by the father's side who are living. Please to call first Thucritides and Charisiades: their father Charisius was brother to my grandfather Thucritides and my grandmother Lysarete, and uncle to my father: for my grandfather married his sister, she not being his sister by the same mother. After them call Niciades; for his father Lysanias was brother of Thucritides and Lysarete, and uncle of my father. Next. Nicostratus; for his father Niciades was nephew to my grandfather and my grandmother, and first cousin to my father. Call if you please, all these persons. And you, stop the water.

[*Witnesses.*]

You have heard, men of Athens, my father's relatives on the male side both deposing and swearing, that my father was their relative. Surely none of them would commit perjury, with imprecations on his own head, in the presence of persons who must know him to be a false witness. Now take the depositions of my father's relatives on the female side.

[*Depositions.*]

These persons, the living relatives of my father, both on the male and on the female side, have testified, as you see, that he was on both sides an Athenian, and justly entitled to the civic franchise. Now call the clansmen, if you please, and after them, the members of my family.

[*Witnesses.*]

Take now the depositions of the townsmen, and those of my relations concerning the clansmen, showing that they elected me prefect of the clan.

[*Depositions.*]

You have heard, men of the jury, the evidence of my relations, of my fellow-clansmen, and of the members of my township and family, who are the proper persons to give evidence. From this you may see, whether he is a citizen or a foreigner, who could get such support. If indeed we had had recourse to one or two persons only, we might have lain under the suspicion of having suborned them. But when it appears, that both my father in his lifetime and myself have been members of all those communities, to which each of you belongs, (I mean those of clan, kin, township, and family,) how can it be imagined, or how is it possible that all these persons have been got up, without having any real existence? Had it appeared that my father was a wealthy man, and gave money to these persons to induce them to say that they were his relatives, he might reasonably have been suspected of not being a genuine citizen : but as he was poor, and not only produced relatives, but showed that the persons whom he produced as such gave him a share of their property, is it not perfectly manifest that he really belongs to them? Surely, if he had not been connected with any of them, they would not have taken him as one of their kindred, and given him money for it too. He was connected with them, as the fact shows, and as I have proved to you in evidence. Besides that, he was chosen to offices by lot, and served them after passing his probation. Please to take the deposition.

[*The deposition.*]

Does any one of you suppose that the townsmen would ever have suffered my father, if he had been a foreigner and not a citizen, to hold office among them, and would not have prosecuted him for it? No one ever did prosecute, or bring any accusation against him. Yet the townsmen were compelled to have a ballot on their solemn oaths, when they lost the heritable register in the prefecture of Antiphilus, the father of Eubulides; and they expelled some of their members; but no one ever moved for the expulsion of my father, or brought any charge against him. To all mankind the end

of life is death; and where a man has any charge against him concerning his descent, it is just that his children should continue responsible; but where no objection is made to him during his lifetime, is it not monstrous that his children should be exposed to the attacks of all men? If there never was any inquiry into these matters, it might be conceded that the thing had escaped notice; but if there was an opportunity for inquiry, and a revision of the township, and if no one ever made any accusation, ought I not to be esteemed an Athenian citizen as far as concerns my father, who died before his civic origin was disputed? To prove the truth of my statements, call the witnesses who depose to them.

[*Witnesses.*]

Besides, he had four children by the same mother with myself, and, upon their deaths, he interred them in the ancestral tombs, which are common to all the members of the family; and none of these men ever forbade or prevented it, or commenced an action. But where is the man, who will allow persons having no connexion with the family to be placed in the ancestral tomb? To prove that these statements are true like the rest, take the deposition.

[*The deposition.*]

Such are the grounds of my assertion, that my father was an Athenian. I have produced as witnesses persons who have been voted by my opponents themselves to be citizens, and who depose that he was their cousin. It is shown that he lived such and such a number of years at Athens, and that he was never and in no place regarded as an alien, but that he had recourse to these persons as his relations, and they not only received him as one of them, but gave him a share of their property. He appears further to have been born at such a period, that, if he was of civic birth on one side only, he was entitled to the franchise; for he was born before Euclides.

I shall now proceed to speak of my mother, (for they have calumniated her also,) and I shall call witnesses in support of my statements. And, men of Athens, the calumnies with which Eubulides has assailed us are not only contrary to the

decrees respecting the market, but also contrary to the laws,[1] which declare that, whoever reproaches either a male or a female citizen with trafficking in the market, shall be amenable to the penalties for evil speaking. We confess that we sell ribbons and live not in the way we could desire; and if you regard this, Eubulides, as a token that we are not Athenians, I will show you that it is just the reverse, and that it is not lawful for any alien to traffic in the market. First take and read me the law of Solon.

[*The law.*]

Now take the law of Aristophon. For Solon, men of Athens, was thought to have enacted so wise and constitutional a statute, that you voted to renew it.

[*The law.*]

It becomes you then, men of Athens, acting in vindication of the laws, to hold, not that traders are aliens, but that pettifoggers are scoundrels. And let me tell you, Eubulides, there is another law concerning idleness, to which you who denounce traders are amenable. But we are now involved in such misfortune, that our opponent may travel out of the record to abuse us, and take every possible means to prevent my obtaining justice; while you will perhaps rebuke me, if I tell you what sort of traffic he goes about the city carrying on: and not without reason would you rebuke me; for what occasion is there to tell you what you know? But just consider. It seems to me, that our trafficking in the market is the strongest proof of this man's charges against us being false. For when he says that my mother was a seller of ribbons and notorious to all, there ought surely to have been witnesses speaking to this of their knowledge, not repeating hearsay only. If she was an alien, they should have inspected the tolls in the market, and shown whether she paid the aliens' toll, and to what country she belonged: if a slave, the person who bought her, or the person who sold her, should have come to give evidence of it; or, in default of them, some one else might have proved that she had lived in servitude, or that she had been set free. Eubulides however has proved none of these things; he has only been abusive, and abusive (I think) in the highest possible degree. For this it

[1] See the Charicles, Excursus on the Markets, page 283. Translation.

is to be a pettifogger—to make all kinds of charges, and to prove nothing.

And then he has said of my mother, that she was a nurse. We do not deny, that this occurred in those evil days of our commonwealth, when all people were badly off: in what way however, and for what reasons my mother became a nurse, I will tell you plainly. And don't let it prejudice you against us, men of Athens: for you will find many women of civic origin taking children to nurse; I will mention them to you by name, if you please. Of course, if we had been rich, we should neither have sold ribbons nor have been at all in distress. But what has this to do with my descent? Nothing whatever, in my opinion. Pray, men of the jury, do not scorn the indigent, (for their poverty is a sufficient misfortune to them,) much less those who employ themselves and seek to get an honest livelihood. Hear my case fairly out; and if I show you that my mother's relations are such as usually belong to free-born citizens, that they deny upon their oaths the calumnies which Eubulides casts upon her, and speak to their knowledge of her civic origin; and if they are witnesses whom you will acknowledge to be credible; I then ask you to give me your verdict as justice requires.

My maternal grandfather, men of Athens, was Damostratus of Melita. To him were born four children: by his first wife he had a daughter, and a son whose name was Amytheon; by his second wife Chærestrata he had my mother and Timocrates. Amytheon had a son Damostratus, who took his grandfather's name, and two other sons, Callistratus and Dexitheus. And Amytheon, my mother's brother, was one of those who went to the war in Sicily and there lost his life; and he is buried in a public monument. These facts will be proved to you in evidence. His sister married Diodorus of Alæ, and had a son Ctesibius; and he fell at Abydos in the campaign with Thrasybulus. Of these relatives there is living Damostratus, the son of Amytheon, my mother's nephew. The sister of my grandmother Chærestrata was married to Apollodorus of Plothea. They had a son, Olympichus, and Olympichus had a son, Apollodorus, who is still living. Please to call them.

[*Witnesses.*]

You have heard these persons giving testimony and taking their oaths. I will also call the person who is my mother's uterine brother and my relation on both sides, and his sons. For Timocrates, who is brother to my mother both on the father's and the mother's side, had a son, Euxitheus, and Euxitheus had three sons, who are all living. Please to call those who are in residence.

[*Witnesses.*]

Now oblige me by taking the depositions of my mother's relations and the members of her clan and township, and those who have the same places of burial.

[*Depositions.*]

I have thus laid before you my mother's pedigree, and I show you that she is of civic origin both on the male and on the female side. My mother, men of the jury, first married Protomachus, to whom she was affianced by Timocrates, her whole brother; and by Protomachus she had a daughter; then she married my father, and gave birth to me. How she came to marry my father, you must be informed: and I will explain the charges which this man makes about Clinias and my mother's having been a nurse and all that. Protomachus was poor, but becoming entitled to wed a rich heiress, and wishing to give my mother away, he persuades my father Thucritus, who was an acquaintance of his, to take her; and my mother was given in marriage to my father by her brother, Timocrates of Melita, in the presence of both his uncles and other witnesses; and those who are still living will bear witness for me. Sometime after this, and after she had had two children, while my father was absent in the campaign with Thrasybulus, she being in bad circumstances was compelled to take Clinias, the son of Clidicus, to nurse; an unfortunate thing truly as regards the peril which now hangs over me, for from this nursing has arisen all the slander about our family; but the poverty in which she lived rendered it perhaps fitting and necessary at that time. It appears thus, men of Athens, that it was not my father who first espoused my mother: Protomachus was her first husband, who had issue by her, a daughter namely, whom he gave in marriage. He is dead, yet even now he testifies by his acts that she is a citizen by birth and by right.

To prove the truth of these statements, please to call first the sons of Protomachus, next, the witnesses who were present when my mother was betrothed to my father, and his connexions of the clan, to whom my father gave the nuptial sacrifice in honour of my mother. After them, call Eunicus of Cholargus, who received my sister in mariage from Protomachus, and next, my sister's son. Call them.

[*Witnesses.*]

Should I not be most cruelly treated, men of Athens, when all these relations depose and swear to their connexion with me, if any one, not disputing the citizenship of any of these, should nevertheless vote me to be an alien? Now please to take the deposition of Clinias, and that of his relations, who of course knew who my mother was, that nursed him. Good conscience requires them to swear, not to what I assert to-day, but to what they have known all their lives of the person reputed to be my mother and nurse of Clinias. For, if it is a mean thing to be a nurse, I don't shun the truth. We are not guilty for having been poor, but (if at all) for not having been citizens; and the contest now is not about fortune or money, but about descent. Poverty compels freemen to do many mean and servile acts, for which, men of Athens, they deserve rather to be pitied, than to be utterly ruined. I am told that many women of civic origin have become both nurses and wool-dressers and vintagers, owing to the misfortunes of the commonwealth at that period; and many have since been raised from poverty to wealth. But of these matters by and bye. Now call the witnesses.

[*Witnesses.*]

That I am a citizen both by paternal and maternal descent, you have all learned, partly from the testimony which has just been given, and partly from what was given before concerning my father. It remains that I speak to you about myself; and I think I have a right to say plainly, that being of civic origin from both parents, having the heritage both of property and birth, I am a member of your political community. But I will not stop here: I will produce witnesses to prove everything which it becomes a citizen to establish—namely, that I was introduced to my fellow-clansmen, that I was en-

tered in the register of my fellow-townsmen, that by these very persons I was selected among the noblest-born to draw lots for the priesthood of Hercules, and that I held offices after passing my probation. Please to call them.

[*Witnesses.*]

Is it not shameful, men of the jury? If I was drawn by lot to be priest, after nomination, it would have been my duty to offer sacrifice on behalf of these people, and Eubulides would have had to join me in the sacrifice: and that these same persons should not permit me even now to offer sacrifice in common with them! It appears, men of Athens, that I have all along been acknowledged as a citizen by every one of those who now accuse me: for surely Eubulides would not have suffered a mere resident alien and a foreigner, as he now calls me, either to hold offices, or to draw lots with himself as one of the nominees for a priesthood; for he was one of those who were nominated and drew lots. And again, men of Athens, as he was an old enemy of mine, he would not have waited for the present opportunity, which no one could ever foresee, if he had known anything of this sort against me. But he did not know anything of the kind; and therefore he continued all along to act with me as a member of the township, and draw lots for office without seeing any objection; but when the whole city was roused to anger against the intruders who had pushed themselves into the townships, he began to form plots against me. The earlier occasion would have suited a man convinced that his charges were true; the present suits an enemy and a designing pettifogger. For my part, men of Athens—and by Jupiter and the gods, don't let any one make a clamour or be annoyed at what I am going to say—I consider myself to be an Athenian in the same manner as each of you considers himself to be one, having from the beginning regarded her as my mother, whom I represent as such to you, and not pretending to be her son while I really belong to another. And with respect to my father, men of Athens, I have acted in the same way. Now, if it is just that, when people are discovered to have concealed their real parentage and to have assumed a false one, you should regard this as a sign of their being aliens, surely in my case you should regard the opposite as a proof

that I am a citizen. For I should never in claiming the franchise have entitled myself as the son of parents who were both foreigners: had I known anything of this sort, I should have looked for persons to give out as my parents: but I knew nothing of the kind, and therefore I have kept always to my real parents, and I claim the Athenian franchise as their son.

Besides, I was left an orphan, and yet they say that I am wealthy, and that some of the witnesses depose to relationship with me for the sake of what I give them. And at the same time that they reproach me with poverty and denounce the meanness of my birth, they pretend that I am rich enough to buy everything. Which of their stories then are you to believe? Surely, if I had been an illegitimate child or an alien, the witnesses might have claimed to inherit all my property. Then do these men choose to receive small pittances and to incur peril by giving false testimony and to perjure themselves, rather than to have all and have it safely without rendering themselves amenable to a curse? It is impossible, I say. They are relations, and do an act of justice in helping one of themselves. And they are not doing this now under my influence; but years ago, when I was a boy, they took me to the clansmen, they took me to the temple of Apollo our father-god, and to the other places of worship. Surely, when I was a boy, I did not induce them to do this by an offer of money. My father himself in his lifetime swore the customary oath before the clansmen, and introduced me to them, knowing that I was of Athenian birth, the son of an Athenian mother lawfully married to himself: and this has been proved to you in evidence.

Am I then an alien? Where have I paid the resident alien's tax? Or what member of my family ever paid it? Have I gone to any other townsmen, and, because I could not prevail on them to take me, entered myself on the register of this township? Have I done any of the things which persons who are not genuine citizens are shown to have done? Nothing of the sort. I am known to have lived harmlessly as a member of that township, in which my paternal grandfather and my father lived. And now—let me ask—how could any one establish his title to the civic franchise more clearly than I have done? Let each of you consider, men of

Athens in what other way he could prove relationship to his kinsmen, than in the way that I have proved it—by bringing them to give testimony on their oaths, and by showing that they have been the same all along from the beginning?

On these grounds I had confidence in my case, and came to your tribunal for protection. For I see, men of Athens, that the courts of law are more powerful, not only than the Halimusians who have expelled me, but even than the council and the popular assembly; and justly so; for your verdicts are in every respect most righteous.

Reflect also upon this, you that belong to the large townships; that you did not deprive any man of his right either of accusation or defence. And blessings upon all of you, who have acted so fairly in this matter, and not denied to those who asked for an adjournment the opportunity of preparing themselves! By taking that course, you exposed the tricks of malicious conspirators and calumniators. And you are deserving of all praise for it, men of Athens; on the other hand, those persons are highly blameable, who have abused a process in itself useful and equitable. In none of the townships, however, will you find that such shameful things have been done, as with us. Our townsmen have rejected one brother of a family, and retained another, both their parents being the same: and they have expelled some men of advanced age, whose sons they have left in the township. I will call witnesses, if you like, to prove these things. But the most shameful act of these conspirators I am about to tell you; and, by Jupiter and the gods, let none of you be offended, if I show how base these people are who have wronged me; for I consider that, in revealing their baseness to you, I am telling the very thing which has happened to me.

You must know then, men of Athens, that there were certain persons of foreign extraction, who wished to become citizens; their names were Anaximenes and Nicostratus. This clique admitted them to the township for a sum of money, which they divided among them, getting five drachms each. Eubulides and his party will not dare to say upon their oaths, that they don't know this to be true. And they have not rejected these men on the last revision. What do you think they would scruple to do privately, when they dared to do such a thing in common? Many have been destroyed,

men of Athens, and many have been saved, from corrupt motives, by this faction of Eubulides. Even before their time—(I will speak to the point, men of Athens)—Antiphilus, the father of Eubulides, when he was prefect of the township, as I told you, manœuvred to get money from certain persons, and said that he had lost the public register; under that pretence, he induced the Halimusians to have a revision, objected to ten of the members, and procured their expulsion; all of whom, but one, were restored by the court of justice. This is known by all the older townsmen. It was not very likely they would leave any persons not Athenians on the register, when they contrived to expel even genuine citizens, whom the court restored. And, though he was the personal enemy of my father at that time, he not only did not object to him, but did not even vote that he was not an Athenian. How is that shown? Because he was declared by all the votes to be a member of the township.

But what necessity is there to speak of our fathers? Eubulides himself, when I was entered in the register, and when, the question being proposed for my admission, all the townsmen gave honest votes upon their oaths, neither made any objection, nor gave his vote against me; for then too they all voted that I was a member of the township. And if they say that I am telling a falsehood, let any one that pleases give evidence to the contrary, while my water is running. If my opponents then, men of Athens, insist upon it as a strong circumstance in their favour, that the townsmen rejected me on the late revision, I show that on four previous occasions, when they gave conscientious votes without entering into a conspiracy, they voted that both I and my father were their fellow-townsmen; first, when my father passed the scrutiny on his coming of age; secondly, when I passed the same scrutiny; again, on the former revision, when these people made away with the register; and lastly, I say, they voted in my favour, when they selected me among the noblest-born to draw lots for the priesthood of Hercules. And all these things have been given in evidence.

If I might speak of my own administration as prefect, which brought me into odium with certain members of the township, as I gave offence by calling on many of them to pay rents for the sacred lands, and to refund some of the publ.

money which they had embezzled, I should be very glad if you would listen to me; but perhaps you would think that such matters were foreign to the question; and indeed I have one thing to bring forward, which is positive proof of their conspiracy. They struck out of the oath the clause "that they would vote according to their honest judgment without favour or malice." That became publicly known; and so did another thing, which I shall not shrink from mentioning. These persons from whom I recovered the public money conspired against me, and committed sacrilege by stealing the shields which I dedicated to Pallas; and they chiselled out the decree which the townsmen passed in my favour. And they have arrived at such a pitch of impudence, that they went about saying that I had done this for the sake of my defence.[1] And could any of you, men of the jury, believe me so insane, that, to get this weighty[2] piece of evidence, I would do an act deserving capital punishment, and destroy a public testimonial of my own good conduct? The most shocking act of all they will surely not say has been my contrivance. Scarcely had my misfortune[3] occurred, when, as if I was already an exile and a ruined man, some of these people came by night to my cottage in the country, and attempted to carry away the property which they found there; such thorough contempt had they for you and for the laws. If you like, I will call persons who know these facts.

I could show many other things which these men have done, and many other falsehoods which they have told, and I should be glad to mention them to you; but, as you consider these matters foreign to the issue, I will forbear. Keep in your mind however the following points, and see with what a strong case I have brought into court. As you question the Judges in their probation, even so will I question myself before you. "Who was your father, sir?"—"My father was Thucritus."—"Do any relations give testimony in his favour?"—"Certainly.—First, four cousins; secondly, a cousin's son; thirdly, those who married the female cousins; next, the clansmen; next, the kinsmen of our family who worship the same father-god Apollo, and the same Aulic

[1] That I might cast odium on my opponents by charging them with the act.

[2] Said ironically.

[3] *I.e.* my expulsion from the township.

Jupiter;[1] next, those who use the same place of burial; and in addition to these, the clansmen testify that he has often passed probation and held offices, and they themselves are shown to have ballotted in his favour." With respect to my father's origin then, how could I prove my case more fairly or more clearly? I will call my relations before you, if you desire it.

Now, men of Athens, hear what relates to my mother. My mother is Nicarete, the daughter of Damostratus of Melita. Do any of her relations give testimony?—First, two sons of her nephew; secondly, her cousins; thirdly, the sons of Protomachus, my mother's first husband; next, Eunicus of Cholargus, who married my sister, the daughter of Protomachus; next, the son of my sister. Besides them, the clansmen of her relations and the townsmen have given the like testimony. What more then do you require? That my father married according to the laws and gave a nuptial sacrifice to the clansmen, has been proved in evideuce. I have shown further, that I myself have partaken of all those things which freemen ought to partake of; so that in every respect you will act conscientiously, if you give your verdict in my favour according to right and justice.

One more thing, men of the jury. At the examination of the nine archons you ask whether they behave dutifully to their parents. I was left by my father an orphan. On behalf of my mother I conjure and beseech you—let the issue of this trial be, that you restore to me the right of burying her in our hereditary monuments. Do not preclude me from this—do not make me an outcast—do not sever me from communion with all my relatives, numerous as they are, and utterly destroy me. Rather than abandon them, if it is impossible for them to save me, I will kill myself, so that at least I may be buried by them in my country.

[1] Harpocration—*Ἕρκειος Ζεὺς, ᾧ βωμοὶ ἐντὸς ἕρκους ἐν τῇ αὐλῇ ἵδρυνται· τὸν γὰρ περίβολον ἕρκος ἔλεγον.* Pabst calls him "Gott des Hausbezirks." Schömann (Ant. Jur. Publ. Græc.) *Jupiter Penetralis.*

One of the questions asked of the Thesmothetæ on their probation was, *εἰ Ἀπόλλων ἔστιν αὐτοῖς πατρῷος καὶ Ζεὺς ἕρκειος.*

THE ORATION AGAINST THEOCRINES.

THE ARGUMENT.

THE subject of this speech is like that of the speech against Aristogiton, and it belongs strictly to the class of public orations. Theocrines was one of those odious people whom the Athenians called *Sycophantæ*, and is probably the person referred to by Demosthenes in the oration on the crown, (vol. ii. page 112,) where he calls his rival "a tragic Theocrines."

A criminal information is brought against him on several grounds:

First; because he had withdrawn from the prosecution of one Micion, whom he had charged with having violated some article of the mercantile law, for which withdrawal he was liable to a penalty of a thousand drachms.

Secondly; he was liable by an express statute to imprisonment for having wilfully preferred a false charge against Micion. The withdrawal of this charge (it is contended) was a proof that it was wilfully false. At all events, he was liable in one way or the other. If the charge against Micion was an honest one, it ought to have been proceeded with; if dishonest, he had compromised it from corrupt motives.

Thirdly; Theocrines had incurred a fine of seven hundred drachms payable to the hero of his tribe, and had continued to exercise his civic privileges without having paid it, which was contrary to law. He said it was his grandfather, and not himself, who had incurred the debt. But that made no difference; for he inherited the liability of his grandfather.

Fourthly; he owed to the state a sum of five hundred drachms, which his father had been condemned to pay by a court of law. His father not having paid it in his lifetime, the debt and consequent disfranchisement had descended to Theocrines.

The prosecutor of the information is one Epichares, a young man, whose father had been indicted by Theocrines for moving an illegal decree, and, being brought to trial, had been sentenced to a fine of ten talents. As he was unable to pay so large a sum, he had gone to prison. He might have avoided it (says Epichares), if he had chosen to compound the matter with his accuser. Indignant at the baseness of the man, who had thus deprived him of his liberty and ruined his prospects, the father solemnly charged his son to avenge him, while it was yet in his power, by taking such legal proceedings as were open to him against Theocrines. He could do so while his father lived; but after his father's death he would inherit the disfranchisement and would be disabled to appear as a prosecutor. Epichares

undertook the duty thus committed to him, and laid the present information, which he conducts in person.

After an exordium, in which he bespeaks the indulgence and favour of the jury on account of his youth and forlorn situation, declaring that he had been abandoned by those who had promised to assist him, but who had been deterred or seduced by his opponent—he states briefly the several articles of the information and the facts upon which they are grounded, produces evidence, and shows that his charges are good in law. He proceeds to make a general attack upon the life and character of Theocrines, showing how he had treated his father, and also other disgraceful acts which he had committed, and contends that he is entitled to no mercy at the hands of the jury. The excuses which Theocrines was expected to set up are anticipated. He would endeavour to make a merit of his services as a public accuser, representing himself as a friend of the people and a supporter of the laws: he would urge that he had exposed himself to attack by his prosecution of certain leading statesmen, and in particular, of Thucydides and Demosthenes. These (says Epichares) were idle pretences. He could not have any regard for the laws, when he violated them by continuing to speak and take part in public business without paying his debts to the state. His only object was to make himself of importance and extort money. The prosecutions which he had undertaken were no advantage to the people of Athens: the proceedings were a sham, and got up for the purpose of an answer to this information. As to Demosthenes, whatever quarrel there might have been between him and the defendant had been made up, and, as he believed, for a sum of money. He calls Demosthenes to come forward as a witness; the call however is not responded to, and Epichares speaks of the orator in not the most complimentary terms. At the conclusion, after referring to the services done by some ancient members of his family, and again imploring the jury to redress his father's wrongs, he invokes the assistance of the bystanders, in the hope that some one will volunteer to be his advocate.

The manner in which Demosthenes is here spoken of, and the insinuations cast upon him by Epichares, have led to the general belief that this speech was not his composition. Most critics have attributed the authorship to Dinarchus, who was the personal enemy of Demosthenes, and an imitator of his style of writing; not indeed that this can be taken as a good imitation, for it has but little merit either in regard to force or clearness of language.

From internal evidence (see pages 1330, 1336), it has been inferred, that the date of this speech is after B.C. 344.

As my father, men of the jury, has through the defendant Theocrines suffered political [1] misfortune and been condemned to pay a fine of ten talents, and this fine has been doubled, so

[1] *I.e.* the disfranchisement for non-payment of the fine, to which Theocrines had caused him to be condemned. Pabst—"in Betreff seines Verhältnisses zum Staate, ins Unglück gestürzt."

that we have not the least hope of deliverance, I have thought it right, without taking either youth or any other disadvantage into account, to lay this criminal information, in order to punish the defendant with your assistance. For my father, men of the jury, in compliance with whose wishes I have taken every step, declared to all his acquaintances what a sad thing it would be, if I should let slip the opportunity which I had of taking vengeance on this man during my father's lifetime, and if under the plea of youth and inexperience I should suffer him to be deprived of everything, while Theocrines was left to draw indictments contrary to the laws, and to harass numbers of citizens with vexatious actions which he was not qualified to bring. I therefore beseech and implore you all, men of Athens, to listen to me with favour; first, because I am prosecuting in obedience to my father, and in order to redress his wrongs; secondly, because I am both young and inexperienced, so that I must think myself fortunate, if by your favour I am enabled to reveal what Theocrines has done; and in addition to this, men of the jury, because I have been betrayed (the truth shall be told you) by persons who, after being trusted by me on account of their enmity to Theocrines, after hearing the facts and promising to co-operate with me in this cause, have now left me in the lurch and settled with my adversary, so that I shall not have even an advocate to plead for me, unless some of my relations should be kind enough to assist me.

The defendant was liable to many criminal informations, and had transgressed (as it appeared) all the laws to which that process appertains: but the most remarkable of his acts we found to be the presentment concerning the merchant vessel, and therefore my father put that in the information which he gave me. First he shall read you the statute concerning those who make presentments and then compromise instead of proceeding with them according to law: I think I ought to commence the case with this: afterwards you shall hear the presentment itself, which Theocrines drew up against Micion. Read.

[*The law.*]

This statute, men of the jury, expressly prescribes to those who undertake either to prefer indictments or to present or to do any other of the things mentioned in the statute, on

what conditions each of these proceedings is to be resorted to. These are, as you have learned from the words of the statute —that, if a man shall prosecute his charge and not obtain a fifth part of the votes, he shall pay a thousand drachms ; and likewise if he does not prosecute, Theocrines, he shall pay a thousand drachms, in order that no one may commence vexatious proceedings, or make a job for himself and compromise the interests of the state with impunity.

Now I say that Theocrines (in the words of this information) is liable for having presented Micion of Chollidæ, and then having sold the case for a bribe instead of prosecuting it. And this I think I shall prove clearly. Undoubtedly, men of the jury, Theocrines and his friends have tried all they could to tamper with the witnesses, and to induce them, either by threats or persuasion, not to give evidence. However, if you will support me as you ought to do, and command them, or rather join me in compelling them, either to depose or take the oath of disclaimer, and if you will not permit them to trifle with the court, the truth will be discovered. Read first the presentment, then the depositions.

[*The presentment.*]

This presentment, men of the jury, the defendant gave in after citing Micion to appear : it was received by Euthyphemus, secretary to the Overseers of the Emporium.[1] The presentment was hung out for a long time before the board-room, until the defendant, upon receipt of a sum of money, allowed it to be struck out, when the magistrates called him to attend the hearing before them. To prove the truth of these statements, first call Euthyphemus, who was secretary to the board.

[*The deposition.*]

Now read the evidence of those who saw the presentment hung out. Read.

[*The deposition.*]

Call now the Overseers of the Emporium, and Micion himself, against whose vessel he gave in the presentment ; and read the depositions.

[*The depositions.*]

[1] See vol iv. page 201.

That Theocrines gave in a presentment against the vessel of Micion, and that his presentment was hung out for a long time, and that, when he was called to a hearing before the magistrates, he did not attend or proceed with the case, is testified, as you have heard, men of the jury, by witnesses who had the best means of knowledge. That he is liable not merely to the fine of a thousand drachms, but also to arrest and the other punishments to which this statute subjects anyone who wilfully prefers a false charge against merchants and shipowners, you will easily gather from the law itself. For the proposer of the law, being desirous that those merchants who had committed offences should not escape, and that those who were innocent should not be exposed to annoyance, positively forbade this class of people to present them as offenders, unless there were good ground for believing that the facts charged in such presentment could be established before you: and if any pettifogging person infringes the law, he is liable to criminal information and imprisonment. But it is better to read the law itself: it will explain the thing more clearly than I can do.

[*The law.*]

You hear, men of the jury, what penalty the law imposes on the wilfully false accuser. If then Micion had committed any of the offences which Theocrines charged in the presentment, and Theocrines has compromised the affair and settled with that person, he is guilty of a crime against the state, and justly incurred the penalty of a thousand drachms. But if Micion only sailed where he lawfully might—(for let this be taken either way that he pleases)—and yet Theocrines presents and cites him as a criminal, he then "wilfully prefers a false charge against a shipowner," and has violated not only the former law, but also the one which was last read, and has convicted himself of being thoroughly dishonest both in word and deed. For what man would have relinquished that share of the money which he could have got by proceeding honestly according to law, and rather chosen to make a trifling gain by a compromise and render himself amenable to the statutes, when it was in his power, as I said just now, to obtain half the forfeiture under the presentment? No one would do so, men of the jury, if he were not conscious that his charge was groundless and vexatious.

These are two laws, men of Athens, which have been infringed by this person who indicts others for illegal measures. There is a third law which he has violated, which enacts that any citizen who pleases may lay informations against those who are indebted to the treasury, or against those who are indebted to Pallas or to any other of the Gods or any of the heroes. Now it will be shown, that the defendant owes a sum of seven hundred drachms, which at his audit he was condemned to pay to the hero of his tribe.[1] Please to read just that part of the law.

[*The law.*]

Stop. Do you hear, Theocrines? What does it say?—"Or to any of the heroes."—Now read the deposition of the tribesmen.

[*The deposition.*]

It's very likely, men of the jury, that he'd care for a few persons, or for people who (like Micion) are most of their time out at sea, when he was neither ashamed nor afraid to act thus to his fellow-tribesmen who were on the spot, in the first place, by administering their finances in such a way that they convicted him of embezzlement, and secondly, when he had been fined and was well aware that the laws forbade him to prefer indictments till he had paid the fine, by setting the laws at defiance, as if he were superior to them, and an exception to the rule that state-debtors are debarred from the exercise of civic rights.

He will assert indeed that it is his grandfather, and not himself, who is entered in the register of debtors; and he will have a great deal to say upon this point, and try to make out that it was his grandfather. I myself cannot say for certain, which of the two it was: but, supposing it to be as the defendant will assert, I think that in that case you will be more imperatively called upon to convict him. For if his grandfather was a state-debtor a long time ago, and, though the law makes him his grandfather's heir, and he was bound long ago to have abstained from preferring indictments, he still prefers them; and if he expects to get off on this account, that he is a scamp of the third generation; his plea will not be a good one, men of the jury.

[1] See volume iv. appendix i. page 305.

To prove that it is admitted by Theocrines himself that the debt is his own, and that he made an arrangement with the tribesmen for his brother and himself to pay it by instalments, and that a conscientious jury could not possibly acquit him on this information—please to take the decree which Scironides moved at the tribe-meeting.

[*The decree part read.*]

Theocrines the defendant came and admitted the debt and promised to pay it in the presence of the tribesmen, when he found that we were coming and intended to take a copy of what was entered in the book.

[*The rest of the decree.*]

The members of the Leontian tribe, who compelled Theocrines to pay the seven minas, are somewhat more deserving of your commendation, men of Athens, than Theocrines himself.

There is also a fourth law—(for I confess that I have inquired into most of this man's concerns)—according to which the defendant Theocrines owes five hundred drachms to the state on the following account. His father had not paid a judgment to that amount, to which he was sentenced for having asserted the freedom[1] of a maid servant of Cephisodorus, but had so arranged the matter with Ctesicles the speech-writer, who was retained for his opponents, that he should neither pay the debt, nor be registered as debtor in the Acropolis. Notwithstanding this, I take it, Theocrines is still a debtor according to law. It is not because Ctesicles, the resident alien, has agreed with this man, who was as great a rogue as himself, that a person sentenced to pay a penalty according to law shall not be delivered over to the collectors —it is not on this account that the state is to be deprived of the penalties which have been legally imposed. The parties to a suit may come to what terms they please in their own private matters; but in matters which concern the public they can only make such arrangements as the laws allow.

Please to read the law, which declares that half of the penalty shall be payable to the public treasury by any person who is adjudged to have unlawfully asserted the freedom of a slave. Then read the deposition of Cephisodorus.

[*The law. The deposition*].

[1] See the Archæological Dictionary, title Ἐξαιρέσεως δίκη.

Now read that law, which declares that the party shall be deemed a debtor from the day when he incurred the fine, whether he has been entered in the public register or not.

[*The law.*]

In what other way, men of the jury, is an honest prosecutor to show, that the information has been rightly brought against Theocrines, and that he is not only liable to the penalty of the thousand drachms claimed in the information, but also to several other penalties? It seems to me that no better proof could be devised. For of course you cannot expect Theocrines himself to confess that he is indebted to the treasury, and that the information has been justly laid against him. On the contrary, you may be sure he will say anything rather than that; he will make all kinds of imputations on his accusers, alleging that he is assailed by a cabal, and that he has been brought into this peril on account of the indictments which he has preferred against others for illegal measures. It is the last resource of persons who are convicted on the merits of the case, to invent calumnies and excuses, to make you forget the question before you and listen to arguments foreign to the charge on the record. I can only say, men of the jury; had I seen in the statutes which have been read to you a clause such as this—"the enactments aforesaid concerning false accusers shall be in force, unless Theocrines, when an information is laid against him, shall be pleased to denounce Thucydides or Demosthenes or some of other of our statesmen"—I should have kept myself quiet. But I find no excuse of this kind noticed in the laws, nor is it even new, so as to be worth your attention because heard for the first time; on the contrary, it has been advanced a thousand times before by people on their trial. And I am informed, men of Athens, by those who are older than myself, that in truth no breaker of the laws ought to obtain pardon, but, if any pardon ought to be allowed, it should be, not to habitual delinquents, nor to those who betray the laws from corrupt motives, (that would be most unseemly,) but to those who, for want of experience in such matters, transgress some clause of a statute unintentionally. Surely no one can say that Theocrines the defendant belongs to the last class of persons; on the con-

trary, it must be admitted, that there is no part of the laws with which he is unacquainted.

You must watch him therefore, having regard neither to my words nor to those which he will address to you. For it is not right that you, who sit here to administer the laws, should give your attention to long speeches and accusations, but to such only as you can easily follow, and by the help of which you will be thought by all your countrymen to have decided this information in a manner worthy of the laws: and you should put plain questions such as these—"What do you mean, Theocrines, and you that follow the same courses that he does? Do you require us, who have sworn to decide according to the laws, to give our verdict contrary to the laws on account of your speeches?—and this, when Micion, against whom the defendant Theocrines made his presentment and did not proceed with it, has given evidence before us and made himself responsible to these men?—and when the secretary acknowledges that he received the presentment from Theocrines, and he also has made himself responsible by virtue of the deposition which was read a few minutes ago?—and further, when the overseers of the emporium have, though with great reluctance, borne the same testimony as the other witnesses?—and, in addition to this, when evidence is given, as you have just heard, by persons who saw the presentment exposed to public view, and who went before the magistrates? It would not be right for you to act in such a way, men of the jury.

At all events, the life and character of the defendant will not induce you to disbelieve the depositions which have been read. The character of Theocrines shows him to be what I say still more clearly than the evidence. For what is there which a rogue and a pettifogger would do, which he has not done? Was not his brother, when holding the office of Judge, and acting under his advice, brought into such bad odour with you by the defendant's misconduct, that, when the question was put in the assembly whether he should be continued in office, you not only dismissed him, but deposed the whole board of Judges?[1] And had not his colleagues

[1] At the first assembly of the *Prytany*, when there was an inquiry into the conduct of the magistrates, called ἐπιχειροτονία, upon which the question was put, whether the people were satisfied with their

by prayer and entreaty, and by promising that Theocrines should not again come near the board, prevailed on you to restore them their crowns, the greatest disgrace would have been inflicted on them. There is no need for me to call witnesses to prove these facts; for you all know that the Judges in the archonship of Lyciscus were deposed in the popular assembly through Theocrines. And bearing this in mind, you ought to presume that he is the same person now that he was then.

Not very long after his dismissal, his brother came to a violent death, and see how he behaved in the affair. He made inquiry after the murderers, and when he discovered who they were, he took a sum of money and abandoned further proceedings. The office of sacrificer, which his brother held when he died, Theocrines assumed contrary to law, not having been drawn for it either originally or in the place of another:[1] and he went about bewailing his brother's cruel fate, and threatening to summon Demochares before the Areopagus, until he compounded with the guilty parties. He's an honest man—is he not?—and a trustworthy man, and above all pecuniary considerations! He won't venture himself to say so. For they say that, whoever means to administer the public affairs with justice and moderation ought not to have so many wants, but should be superior to those temptations which cause people to spend what they get on themselves.

Such was his conduct in the affair of his brother. It is worth your while to hear how he has managed matters since he applied himself to politics; for he will say that he loves

conduct. In the majority of cases this would be merely a matter of form; but any one was at liberty to prefer a complaint against a magistrate, and in such case the people, after hearing the charge, decided by show of hands whether the accused person should continue in office or not.

(See Schömann *de Comitiis*, 231.)

Theocrines had been assessor, *πάρεδρος*, to his brother, one of the Thesmothetæ, and had given him advice, by acting upon which the whole board of Thesmothetæ got into disgrace, and were deposed upon the *ἐπιχειροτονία*. They were reinstated upon undertaking not again to employ Theocrines as their adviser.

[1] *ἐπιλαχεῖν* was the proper term, when a man was drawn for an office in the room of one rejected on his probation.

See Schömann, Ant. Jur. Publ. Græc. 212, 239.

you next to his relations. I will begin with his conduct to us. Upon his accusation of my father, men of the jury, when he was prosecuting the indictment against him for illegal measures, he said that there had been a plot against the boy, concerning whom the decree was drawn ; the decree, I mean, in which my father proposed that maintenance in the Prytaneum should be granted to Charidemus, the son of Ischomachus. Theocrines asserted that, if the boy returned to his paternal family, he would have lost all the estate which Æschylus, his adoptive father, had given him ; the assertion was false ; for such a thing never happened, men of the jury, to any son by adoption. He said also that Polyeuctus, who married the boy's mother, had been the contriver of the whole plot, because he wanted to get the boy's property for himself. The defendant's statement excited the anger of the jurors : they considered that, although the decree itself and the grant were conformable to law, yet that the boy would in fact be deprived of his property, and so they fined my father ten talents, as having conspired with Polyeuctus, and gave credit to the defendant as having vindicated the rights of the boy. Such, or to this effect, were the proceedings in the court. When this worthy person saw that people's minds were exasperated, and that he himself had been believed, as if he were not a thorough miscreant, he summoned Polyeuctus before the archon, and preferred an indictment against him for maltreatment of the orphan ; he went so far as to hand the record to Mnesarchides the assessor ; but having received three hundred drachms from Polyeuctus and sold for a trifling pittance those grievous charges, for which he estimated the penalty in my father's case at ten talents, he abandoned his proceedings, withdrew the indictment, and betrayed the orphan. Please to call the witnesses who prove these things.

[*Witnesses.*]

If my father had been well off, men of the jury, and able to provide a thousand drachms, he would have got entirely quit of the indictment for illegal measures. That was the sum the defendant asked. Please to call Philippides of Pæania, to whom the defendant Theocrines made this statement, and the other persons who are aware of his having made this statement.

[*Witnesses.*]

That Theocrines, if he had been offered the thousand drachms, would have withdrawn the indictment against my father, I think, men of the jury, you would all be satisfied, even if no witness had deposed to it. That he has summoned many other persons and preferred indictments against them and then compromised the indictments, and that he is in the habit of compounding such matters for a small sum of money, I will prove to you by calling the very persons who paid such money, that you may not believe his assertion that it is he who watches the framers of illegal measures, and that, when indictments for illegal measures are put a stop to, the democracy is overthrown, (for such is the way in which people who sell everything are accustomed to talk). Please to call Aristomachus, the son of Critodemus, of Alopece; for he gave, or rather in his house was given, the mina and a half to this incorruptible person, on account of the decree which Automedon drew up for the people of Tenedos.

[*The deposition.*]

Now read the depositions of the other persons to the same effect, in the order in which I have given them, and that of Hyperides and Demosthenes. This is really a monstrous thing, that the defendant should be glad to get money by selling indictments from persons whom no one else would think of asking for money.

[*The depositions.*]

Theocrines will say presently, that the information has been laid against him on this account, that he may not proceed with his indictment against Demosthenes, or with that which he preferred against Thucydides; for he is clever at lying and talking nonsense. I, men of the jury, have examined this matter among others, and I will satisfy you that the state will not suffer the slightest disadvantage, whether the decree of Thucydides be ratified or whether it be annulled. In truth, it is not right to offer such defences to a jury who are sworn to decide according to the laws: however, you will see presently from the indictment itself, that it was intended to be set up as an answer to the information. Read these indictments.

[*The decrees. The indictments.*]

Whether these decrees[1] are left to stand, or whether they are condemned, men of the jury, (for it makes no difference to me,) what does the state gain or lose? Nothing, in my opinion. They say that the Ænians pay no regard to our commonwealth, and that this has been brought about by the defendant Theocrines. For being assailed by his calumnies at that period, when some of them were philippizing and some atticizing, and hearing that the decree had been indicted as illegal, which Charinus had indicted before, that (namely) concerning the contribution, which Thucydides moved, and that there was no bringing the matter to an issue, as, although the people consented to take from the Ænians the contribution which they had agreed for with Chares the general, this miscreant had undertaken to co-operate with the traitor Charinus; they took that course to which they were driven by necessity, and of the evils which were before them chose the least. How must they have been harassed by the persons who were bringing indictments here, when they deemed it advisable to revolt from us, and to receive a garrison and submit to barbarians? But you alone, I take it, are able to endure the wickedness of these persons; no other Greeks can tolerate it.

That neither on account of the indictments which have been read nor for any other reason ought you, in breach of the laws concerning criminal informations, to acquit Theocrines, is pretty clear by what has been stated already. I fancy however, men of the jury, that you are quite alive to the nature of these men's excuses and their accusations and pretended quarrels. For you have seen them often enough in the courts and on the platform professing to be personal enemies, and then in private following the same occupations and sharing their gains; at one time bespattering each other with the foulest insult and abuse, and in a little time after feasting together[2] and taking part in the same sacrifices. And you need hardly be surprised at any of these things; for the men are naturally base, and they see that you allow of such

[1] "De Æniis levandis nimio onere τῆς συντάξεως."—Schäfer, citing Böckh, Œcon. Polit. Athens. i. 451.

[2] Pabst, adopting Schäfer's reading, συνδεκατίζοντας.—"Familienfeste zusammen feierten."

excuses; why therefore should they not resort to them and try to deceive you?

Upon the whole, I deem it to be your duty, men of the jury, keeping in view simply the question in the cause, to see whether my arguments are just and conformable to law, and then to afford me redress, without caring whether it is Demosthenes who prosecutes or only a youth; and not to consider that the laws ought to have greater effect, when they are exhibited before you with the ornaments of rhetoric, than when they are recited in ordinary language, but to regard them as invariably the same; and you should be the more ready to succour the young and inexperienced, as they are less likely than others to deceive you.

That it is just the reverse of what Theocrines asserts—that it is not he, but I, who am oppressed by a faction, and that, after promises by certain people to help me in the cause, I have been betrayed through the leagues formed by these men—will be clear to you from what I am about to do. Let the crier here call Demosthenes. He will not come up. The reason is, not that I have been persuaded by certain people to lay an information against Theocrines, but that Theocrines and the person just called have settled their differences. And to prove the truth of this, I will compel both Cleinomachus, who brought them together, and Eubulides, who was with them at Cynosarges, to give evidence: at the same time I will produce what you will all acknowledge to be, not a weaker, but a stronger proof than the former, in confirmation of my statement. Theocrines, when prosecuting for an illegal measure this odious fellow (as he will call him by and by), the cause of his present troubles, publicly discharged him from the indictment, in which he had laid the penalty at ten talents. How?—you will ask. By no new device, but as other people of his class have done it. When the indictment was called on, some one made an affidavit to put off the trial, on the ground that Demosthenes was ill—Demosthenes, who was then going about and abusing Æschines! Theocrines allowed this enemy's excuse, and neither then made a counter-affidavit, nor has since given notice of trial. Do they not manifestly impose on you, when you give ear to them under the impression that they are personal enemies? Read the depositions.

[*Depositions.*]

Even you then, men of the jury, should not listen to those persons, who will pretend to be advocates for Theocrines on account of their enmity to Demosthenes. You should require them, if they are really the enemies of Demosthenes, to indict him themselves, and not allow him to frame illegal decrees. Remember, these persons are as clever speakers as Theocrines, and have more credit with you. They will not do what I say, however. Why? Because, men of the jury, they pretend to be at war with one another, when they are not at war.

With respect to the enmity of these persons you can give me fuller information than I can give you. I should be glad however to ask Theocrines in your presence, if he were likely to give me an honest answer, what he would have done (as he says that his vocation is to put down the framers of illegal decrees), if any one had addressed the whole body of citizens in the assembly, and carried a decree, enabling those who were disfranchised and indebted to the treasury to indict, to present, to lay informations, in short, to do all the things which the law now forbids them to do? I should like to ask, whether or not he would have indicted the person who moved that decree for an illegal measure? Should he say that he would not indict, how can you believe him, when he declares that he keeps a watch over the framers of illegal decrees? If he would indict, is it not scandalous—when he would prevent a decree moved by another person from being finally established, so that all people may not have this privilege—when he would prevent the thing by preferring an indictment, and annexing to it the very words of the laws—yet that now he himself, without having persuaded the people, or made the thing open to the whole body of citizens, draws indictments in spite of the prohibition of the laws? And he will say presently, that he is cruelly treated if he is not at liberty to do these things, and he will rehearse the statutory penalties to which he will be liable on conviction. To think then that he should pay no regard to the laws, but expect to have such a privilege conceded to him by you, as no one has ever ventured to ask for!

That on the information itself neither Theocrines nor any of his advocates will have a single argument to urge, I think

you are all pretty well assured. I fancy however, they will try to make this point, that there are no informations against persons who are not registered in the Acropolis, and that you cannot consider those as debtors, whose names have not been delivered over to the collectors; as if you would be ignorant of the law, which declares that a man shall be considered a debtor from the day on which he has incurred the penalty, or on which he has transgressed the law or the decree; or as if it were not manifest to all, that there are many ways in which people are indebted to the treasury, or in which people who obey the laws satisfy such debts! This indeed is manifest from the statute itself. Please to take this law again.

[*The law*]

Do you hear, you odious beast, what the statute says? "From the day on which he has incurred the penalty or transgressed the law." Those are the words.

I am told that they intend also to produce the law, which requires that so much as is paid upon any debt shall be struck out of the register, and they will ask, how any part can be struck out when the debt is not entered at all in the register; as if it were not plain that this enactment applies to registered debtors, while the case of debtors who are not registered is provided for by the other enactment, which says that they shall be considered as debtors from the day on which they have incurred the penalty, or transgressed the law or the decree! Why then, says he, do you not indict me, who am indebted and not registered, for non-insertion[1] in the register? Because the law declares that indictments for non-insertion in the register shall lie, not against unregistered debtors, but where persons, who have been registered and have not paid their debt to the state, have their names expunged. Take and read me the law.

[*The law.*]

You hear the law, men of the jury, which says expressly that, if any debtor to the treasury shall have his name expunged without having paid his debt to the state, an indictment for non-insertion in the register may be brought against him before the judges, but not against a debtor who

[1] See Arch. Dict. ἀγραφίου γραφή.

has never been registered: such a person it makes liable to an information and other legal proceedings. Why do you tell me, Theocrines, of all the possible ways in which one may punish one's enemies, instead of justifying yourself in this cause in which you are made defendant?

Mœrocles, men of the jury, who framed the decree against people who injure merchants, and who persuaded your allies as well as you to take preventive measures to put down robbers and pirates, will not be ashamed presently to speak in defence of Theocrines, in opposition to his own decrees, and will be bold enough to advise you, that you ought not punish but to acquit a man, who has been thus clearly convicted of preferring unjust charges against merchants; as if he had for this reason proposed to clear the sea of robbers, that seamen, after escaping the perils of navigation, might pay money to these persons in the harbour; or as if it made any difference to merchants, that after the completion of a long voyage they should fall into the hands of Theocrines. I humbly think, though accidents at sea are owing, not to you, but to your generals and commanders of the convoy, yet that mishaps in the Piræus and before the magistrates are owing to you, who have all these persons under your control. Therefore it is more necessary to watch those who transgress the laws at home, than those who disobey your decrees abroad, that you may not yourselves be thought to regard such things with indifference, and to connive at the doings of these men. For surely, Mœrocles, we shall not now compel the Melians to pay ten talents under your decree because they harboured the pirates, and yet acquit this man, who has violated both your decree and the laws which uphold our commonwealth. And when we prevent the islanders from doing wrong, against whom we must man our ships of war in order to recall them to their duty, surely you will not permit these miscreants to escape, when you have only to sit here and inflict punishment on them according to the laws. You will not do so at least if you are wise. Read the pillar.

[*The pillar*].

Upon the laws and the circumstances of the case I can have but little to add; for I think that you have been fully

informed of all the particulars. I will only implore you for justice on behalf of my father and myself, and then I will come down and trouble you no further. I conceived, men of the jury, that I was bound to redress my father's wrongs: under the impression that this was just, I laid the present information, as I stated to you in the beginning. I was quite aware that those inclined to calumniate me would find grounds of attack on the score of my youth, while from others I expected praise and commendation for undertaking to punish my father's enemy. I considered however, that, although the result with my hearers might depend upon accident, my duty was to obey my father's injunction, especially as it was a just one. For when ought I to redress his wrongs? Ought I not to do it now, when I have the opportunity of avenging him according to law, when I myself am sharing my father's misfortune, and when my father is left in this desolate and forlorn state? For, in addition to our other misfortunes, this, men of the jury, has befallen us. Everybody urges us on and expresses sympathy for what has happened, and says that we have been cruelly treated, and that the defendant is liable to the information; but none of these people who talk thus like to co-operate with us, and they all say that they do not wish openly to quarrel with Theocrines. So few people are there who love justice well enough to speak their minds freely. Among many misfortunes, men of the jury, which have befallen us in a short period through the defendant Theocrines, the most grievous of all is this—that my father, who is the sufferer, and could disclose to you the cruel and illegal acts of Theocrines, must of necessity hold his tongue, (for the laws compel him,) and I, who am not equal to the task,[1] am obliged to come forward; and, while other persons of my age are assisted by their fathers, my father rests all his hopes on me.

Engaged as I am in such a contest, I beseech you to lend me your assistance, to prove to all, that, whether a youth or an old man or a person of any other age, has recourse to you and to the laws, he will obtain perfect justice. For it is not right, men of the jury, that you should put either the laws or yourselves in the power of the orators; you should rather

[1] Pabst—"der ich allen solchen Geschäften noch nicht gewachsen bin."

keep the orators under your control, and make a distinction in your judgment between those who speak well and cleverly, and those who speak justly; for it is justice that you have sworn to decide by your verdict. I am sure no one will persuade you, that there will ever be a lack of orators like the defendant, or that the commonwealth will on such account be worse administered. On the contrary it is said, as I am told by people older than myself, that the commonwealth most flourished when moderate and discreet men directed her affairs. For let me ask: Will you find useful counsellors in these persons? That can hardly be, when they never speak in the assembly, but only get money by indicting those who do speak there. And therefore it is a surprising thing, that, living as they do by pettifoggery, they tell you they get nothing from the state, and, though they possessed nothing when they came to you, now that they are well off, they don't even thank you, but go about saying that the people are unstable, useless, ungrateful, as if you prospered through these men, not they through the people. But in truth they have reason for saying this, when they observe your negligence; for you have never punished any of them as their baseness deserves, but you allow them to say, that the safety of the democracy is secured by the agency of men who bring indictments and vexatious actions, than whom there is not a more pernicious class in existence. For in what way can you find them serviceable to the state? Perhaps, they chastise wrong-doers, and through them the number of wrong-doers is diminished. Not at all, men of the jury; the number is increased; for people who are disposed to do evil, knowing that they must give a portion of their gains to these men, are compelled to seek larger plunder from the public, in order that they may have enough to spend upon these men as well as themselves. Against other malefactors or mischievous people there are various ways of defending ourselves: we may put a guard over our household effects to preserve them; or we may stay at home at night to escape injury; in some way or other, in short, we may always take precautionary measures to defeat the plots of ill-disposed people. But against pettifoggers like the defendant where can one go to obtain security? Things that afford protection from other injuries are means of traffic for these persons; I mean laws,

courts of justice, witnesses, assemblies; in which these persons display their peculiar power, treating those who offer them money as their friends, and quiet and wealthy people as their enemies.

Remember then, men of the jury, the wickedness of these men; remember also our ancestors, of whom Epichares, my grandfather, was victorious at Olympia in the footrace of boys, and won a crown for the state, and, when he died, left behind him an honourable name with your ancestors; while we, through this execrable person, are deprived of our franchise in that state, in behalf of which Aristocrates, the son of Scellius, the uncle of my grandfather Epichares, whose name is borne by my brother who is here in court, performed many noble actions during the war between Athens and Lacedæmon, and (among other things) having razed to the ground Eetionea,[1] into which the faction of Critias were about to receive the Lacedæmonians, demolished the fortress which was raised against us, and restored the people to their country, himself incurring perils not such as this which I am incurring, but perils in which even disaster is glorious; and he put down those who were forming conspiracies against you. For his sake you might reasonably have preserved us, if we had resembled the defendant Theocrines; I need not say, when we are better persons than he is, and have a just cause. We will not trouble you by constant repetition of these things; for the defendant has put us in such a position, that, as I stated in the outset, we have not even a hope of enjoying that privilege of speech which is accorded to aliens.

In order then that, if we can get nothing else, we may have at least the consolation of seeing the defendant remain quiet, I beseech you to give us redress; to have compassion on those members of our family who have died for their country; to compel Theocrines to make his defence on the question raised by the information, and judge his speech with the same severity which he adopted as our accuser. For he, after deceiving the jury, refused to propose any moderate penalty for my father, though I made many entreaties, and fell at his knees in supplication; but, as if my father had betrayed the commonwealth, he proposed that my father should pay a

[1] See Thucydides, viii. 89—92; from which it would appear that the orator refers this act of Aristocrates to the wrong period.

penalty of ten talents. I therefore implore and beseech you to pronounce a righteous verdict.

Come forward any one, that has anything to say, and plead for me. Step up on the platform.

THE ORATION AGAINST NEÆRA.

THE ARGUMENT.

There was a law at Athens, enacting that any foreign woman, who lived in wedlock with a citizen should, upon conviction, be sold for a slave; and the man who lived with her was subjected to a penalty of a thousand drachms. Under this law Neæra was indicted for having lived with Stephanus and passed as his wife; she not only being a foreigner, but having been from her girlhood a slave and a prostitute.

The prosecution is got up by Apollodorus and his brother-in-law, Theomnestus, in revenge for former injuries done them by Stephanus. He had indicted Apollodorus for having moved a decree enabling the Athenians to apply their surplus revenue to military purposes, and on that indictment he had procured his conviction and sentence. (See volume iii. p. 370.) He had also brought a false accusation of murder against Apollodorus, upon which he was acquitted. Theomnestus, in revenge for this, instituted the present proceeding, accusing Stephanus not only of having lived in wedlock with Neæra, but of having entered her sons as his own in the registers of his clan and township, and of having twice given her daughter in marriage to Athenian citizens.

Theomnestus having briefly opened the case, Apollodorus comes forward as advocate, and states the history of Neæra's life, her connexion with Stephanus, and the various illegal acts of which they were guilty.

Neæra, at a very early age, was one of seven girls in the establishment of Nicarete, a procuress at Corinth. Here she had several lovers who took her into partial keeping, till she was purchased by two persons, Timanoridas and Eucrates. From them she was redeemed by the aid of Phrynio, a profligate young Athenian, who removed her to Athens, and then lived with her in a most indecent manner, till she, irritated by his ill usage, ran away, taking with her some of his effects, to Megara. After residing there two years, she fell in with Stephanus, who brought her back to Athens, promising to live with her as his wife and bring up her three children as his own. Phrynio, discovering that she was in Athens, claimed her as his slave and took legal proceedings to get possession of her; Stephanus resisted, and the dispute was referred to arbitrators, who decide that Neæra was a free woman, but that she should restore to Phrynio his property, and that she should live with him and with Stephanus alternate days. Phrynio seems shortly after to have abandoned his privilege, and Neæra re-

sided exclusively with Stephanus, who made a living by her prostitution, sometimes extorting money from rich lovers under pretence of their being caught in adultery with a married woman. He represented her children to be his own, introducing the two sons to the members of his clan and township, and giving her daughter, Phano, in marriage to an Athenian citizen named Phrastor, who afterwards, discovering the imposture, put her away, and when Stephanus sued him for alimony, as he had not returned her portion, preferred an indictment against Stephanus for giving a foreign woman in marriage to him. Stephanus was glad to compound the matter by dropping his action. Phrastor had a child by Phano, whom he was persuaded to introduce to his clan and family, but the members of the family rejected him, and Phrastor dared not take an oath affirming the child's legitimacy. Phano, while in the house of Stephanus, followed her mother's practices. An anecdote is related of one Epænetus, an Andrian, who being caught in Phano's bedroom by Stephanus, and charged with adultery, promised to pay him thirty minas and gave sureties for that sum, but afterwards discovered the fraud, and indicted Stephanus for false imprisonment; the case was referred and compromised. Phano was a second time given in marriage to Theogenes, the king-archon, who had appointed Stephanus to be his assessor. The wife of the king-archon was required by law to be a person of pure Attic blood, and to have been married a virgin, as she had to officiate at some of the most solemn sacrifices. (See volume iii. page 258.) That such a person as Phano should even be present at any such ceremony, was a breach of the law, she being an adulteress, who was excluded from the temples and public worship: (volume iii. page 348.) The Areopagites, learning who Phano was, imposed a fine on Theogenes, and censured him in private: he then put his wife away, and dismissed Stephanus from his office of assessor.

Apollodorus, after stating these various facts, reminds the jury of the great care which the laws took to preserve the purity of Attic descent, and to allow none but meritorious persons to receive the gift of citizenship. Stephanus had fraudulently conferred civic rights on persons of the most infamous character, thereby not only breaking the law, but disgracing the city and insulting the gods. It was necessary to bring these parties to justice, for the sake of example, and to preserve the public morality.

The defence expected to be set up by Stephanus was, that he had kept Neæra as a concubine only, and that the children were not hers, but his by a deceased wife of Athenian birth. Apollodorus produces evidence to confute this assertion.

This Stephanus is not the same as the one sued by Apollodorus for false testimony, as appears from internal evidence.

The oration, though probably not the work of Demosthenes, is thought to be a genuine production of some contemporary, and to present a correct picture of the vices of the day. Here Becker found a good part of the materials for scene ii. of his Charicles. The connexion of Demosthenes with Apollodorus, and the mention of him as a witness in the cause, may perhaps have been the reasons why the speech was ascribed to him. Most of the ancient critics, as Dionysius, Photius,

Harpocration, Libanius, consider the oration to be spurious; and modern critics in general, excepting Reiske and Auger, concur in that opinion.

Taylor says:

"Si auctoritati cedendum esset, nulla foret inter orationes Demosthenicas, quam tantâ facilitate expungi sinerem, quantâ illam, quam jam tractare incipio. Pleni sunt antiquorum criticorum libri gravissimis de istâ causâ suspicionibus.

"Me profecto non pudet dicere, opus esse putidissimum, nullius aut decoris aut gravitatis: et praeter naevos orationis, quibus passim scatet, nihil ibi dictum quod lectorem percellere aut allicere aut morari demum potest. Est autem oratio satis antiqua et videtur ad usum forensem fuisse conscripta, non ad ostentationem aut ad imitationem concinnata. Passim inter adnotandum suspicionibus meis auctoritatem addidi, inde lector meus judicium capere poterit, jure an injuriâ agam, cum hæc futilia non amplectar."

Reiske:

"Nihil video causæ cur hæc oratio Demostheni abjudicetur, neque reperio in totâ hâc oratione quicquam oratore nostro indignum, cui eam omni modo ereptum it Taylorus, sed meras ille nugas agens."

Auger:

"D'anciens critiques ne pensent pas que ce discours soit de Démosthène; ils le tiennent trop foible et trop lâche. Il est vrai qu'il y a des longueurs; la digression sur les Platéens sur-tout est trop détaillée: cependant il n'est pas indigne de Démosthène, et il pourrait être de lui. Comme il le composoit pour un autre, peut-être avait-il affecté d'y laisser quelques négligences, et s'y était-il permis un peu de diffusion."

Schäfer:

"Reiskius omnibus nititur viribus ut hanc orationem a Demosthene scriptam esse pervincat. Sed multum vereor ne incassum contenderit."

Becker and Pabst agree with Schäfer.

Many were the reasons, men of Athens, which urged me to prefer this indictment against the defendant Neæra, and to bring the case before you. We have suffered grievous injuries from Stephanus, and have been brought by him into the utmost peril, both my father-in-law and myself, and my sister and my wife; so that I enter upon this trial not as an attacking party, but by way of retaliation; for Stephanus first began the quarrel, without having sustained any harm from us either in word or deed. I wish first to explain to you the injuries which he has done us, that you may make the more allowance for my resentment, and to show you the imminent risk we ran of losing our country and our franchise.

When the people of Athens passed a decree, bestowing citizenship upon Pasion and his descendants, on account of services to the state, my father approved of the people's gift,

and chose Apollodorus, Pasion's son, for the husband of his daughter, my sister. The children that Apollodorus has are by her. Finding that Apollodorus behaved well to my sister and to all of us, and that he regarded us really as his connexions, and as entitled to share in all that he possessed, I took his daughter, my own niece, for my wife. In course of time Apollodorus was drawn for member of the council. After he had passed his probation and sworn the customary oath, there came a war, and a crisis of the utmost importance to the commonwealth. It was of this nature, that in case of success you became the greatest of all Greek people, you to a certainty recovered your own possessions, and subdued Philip; or, if your succours arrived too late, and you abandoned your allies, the army being broken up for want of money, you would at once destroy them, and lose the confidence of the rest of the Greeks, and risk the loss of your remaining possessions, Lemnos and Imbrus and Scyrus and the Chersonese. You were then about to send the whole force of the commonwealth to Eubœa and Olynthus. At this crisis Apollodorus framed a decree in the council, and, when it had received their sanction, brought it before the popular assembly, proposing that the people should decide whether they would apply the surplus of the public expenditure to military or to theoric purposes. The laws prescribed that, when there was war, the surplus of the public expenditure should be applied to military purposes, and Apollodorus considered that the people ought to have full power to deal as they pleased with their own, and he had sworn also to act in the council for the advantage of the Athenian people, as you all bore witness upon that occasion. For, when the division took place, there was not a man who opposed the application of the fund to military purposes; and even now, whenever the thing is talked about, it is universally admitted that Apollodorus gave the best advice and was unjustly treated. Your resentment, therefore, should fall not upon the juries who were deceived, but on the speaker who deceived them.

Stephanus, our opponent, indicted that decree as illegal, and brought the case before a jury. He produced false witnesses to establish his calumnious charge, made various accusations not included in the indictment, and so got a verdict against the decree.

That he should have chosen to do this, I do not so much complain. But when the juries received their ballot-balls to assess the penalty, and we implored his clemency, he refused, and proposed a fine of fifteen talents, in order that he might deprive Apollodorus of his franchise, and reduce his children and my sister and all of us to the extremity of distress and poverty. For the property of Apollodorus did not amount to anything like three talents, so that it would have been impossible to pay so heavy a fine; and, if the fine had not been paid by the ninth presidency, it would have been doubled, and Apollodorus would have been entered as owing thirty talents to the treasury; and upon his being entered as debtor to the treasury, his whole property would have been scheduled as belonging to the state, and then it would have been sold, and he and his children and his wife and all of us would have been reduced to the extremity of distress. And further, his other daughter could not have been given in marriage: for who would ever have taken a portionless girl from a father who was in poverty and indebted to the state? Such were the calamities that Stephanus was bringing upon us all, without having ever been injured by us! To the jury who then sat in judgment I am deeply grateful, that they did not suffer Apollodorus to be exterminated, but imposed the fine of a talent only, so that he was able (with some difficulty) to pay it: but as for Stephanus, we have sought, as is just, to pay him off in his own coin.

For he not only tried to destroy us in this way, but wished to drive Apollodorus into exile from his country. He brought a false charge against him, [that he had been indebted to the treasury for five and twenty years, and also] [1] that he had once gone to Aphidna in search of a runaway slave that belonged to him, and that he had there given a blow to a woman, and that she had died of it; and he suborned some slaves and got them to represent that they were Cyrenæans, and gave notice to Apollodorus to appear on a charge of murder in the court of Palladium. And Stephanus conducted the prosecution, and affirmed on oath that Apollodorus had killed the woman with his own hand, imprecating destruction upon himself and his race and his house, affirming facts which never took place, and which he never saw nor heard

[1] This clause appears to be an interpolation.

from any human being. It was clearly proved that he had committed perjury and brought a false accusation ; he was shown to have been hired by Cephisophon and Apollophanes, to have received a sum of money to procure the banishment or disfranchisement of Apollodorus ; and so, having got but a small number of votes from a jury of five hundred, he left the court stigmatised as a perjured man and a scoundrel.

Now consider in your own mind, men of the jury, and ask yourselves this—what I could have done with myself and my wife and my sister, if Apollodorus had suffered any of the injuries which Stephanus plotted to inflict upon him, either in the first or the second prosecution—what disgrace, what calamity must have befallen me ! I was exhorted on all sides by people who came to me privately, to take vengeance on him for the injuries which he had done us. They reproached me, saying I should be the greatest coward in the world, if, being so close a connexion of these persons, I did not redress the wrongs of a sister and a father-in-law and sister's children and a wife—and if I did not bring before you a person who was guilty of such flagrant impiety to the gods, such an outrage upon the commonwealth, such contempt of your laws—and if I did not prosecute and convict her of crime, and thus enable you to deal with her as you pleased. I have therefore come before you—and, as Stephanus attempted to deprive me of my relations contrary to your laws and decrees, so am I come to prove to you that Stephanus has been cohabiting with a foreign woman contrary to the law, and has introduced strange children to his clansmen and fellow-townsmen, and has been giving in marriage the daughters of loose women as his own, and has committed impiety to the gods ; and that he deprives the people of their rightful privilege to create what citizen they please : for who will hereafter seek to obtain citizenship as a gift from the people, with heavy expense and trouble, when he may get it from Stephanus at a less expense and with the same advantage ?

I have thus explained to you the injuries done me by Stephanus, which have provoked me to bring this indictment against him. I must now proceed to show, that the defendant Neæra is an alien, and that she has been living with Stephanus as his wife, and that she has violated the laws of the state in many ways. I have to ask a favour of you, men of the jury,

which it becomes me to ask, being a young man and having no experience in public speaking; that you will allow me to call Apollodorus to be my advocate upon this trial. For he is older than myself, and has more knowledge of the laws, and he has been injured by my opponent Stephanus, and he has given close attention to all these matters; so that there can be no prejudice against him for retaliating on the party who first attacked him. It will be your duty to learn from the mouth of truth itself the real character both of the accusation and the defence, and then to pronounce such verdict as the gods and the laws and justice and your own interests demand.

[*Apollodorus comes forward as advocate and speaks the remainder of the oration.*]

The injuries done me by Stephanus, which have induced me to appear at the bar to accuse Neæra the defendant, you have heard, men of Athens, from Theomnestus. That Neæra is an alien, and that she lives with Stephanus as his wife contrary to the laws, I shall proceed to show you clearly. First he shall read you the law, under which Theomnestus preferred this indictment and the present cause comes before you.

THE LAW.

"If an alien shall live as husband with an Athenian woman by any device or contrivance whatsoever, it shall be lawful for any of the Athenians, who are possessed of such right, to indict him before the judges. And if he is convicted, he shall be sold for a slave and his property shall be confiscated. and the third part shall belong to the person who has convicted him. And the like proceedings shall be taken, if an alien woman live as wife with an Athenian citizen, and the citizen who lives as husband with an alien woman so convicted shall incur the penalty of a thousand drachms."

You have heard the statute, men of the jury, which declares that a foreign woman shall not cohabit with a citizen, nor an Athenian woman with a foreigner, and that such parties shall not beget children together, by any device or contrivance whatsoever. And if any persons violate this law, it has given an indictment against them before the judges, against both a foreign man and a foreign woman, and it enacts that any such person, upon conviction, shall be sold as a slave. Now

then I will show you the history of this Neæra's life from the beginning, and prove beyond all question, that she is an alien.

There were seven girls purchased at an early age by Nicarete, a freedwoman of Charisius the Elean, and wife of his cook Hippias, who was an excellent judge of young girls that had a good figure, and knew how to bring them up and train them properly: that indeed was her business, and she got her livelihood by it. She called them by the name of daughters, that she might pass them off as free-born girls, and obtain the highest possible prices from men who sought to have connexion with them. After she had made her profit of their youthful charms, she sold the whole lot of them together, seven in all, Antia, Stratola, Aristoclea, Metanira, Phila, Isthmias, and Neæra, the defendant in this cause. How they were severally purchased, and how they were set free by the persons who bought them from Nicarete, I will tell you in the course of my address, if you desire to hear it and if I have water enough remaining in the glass. I must now return to Neæra the defendant, and show you that she belonged to Nicarete, and prostituted herself to any men who desired to have connexion with her.

Lysias the sophist, being a lover of Metanira, wished, in addition to other expenses which he incurred for her sake, to initiate her; considering that her mistress got the benefit of what he spent in other ways, but what he expended for her on the festival and the mysteries would be a personal remuneration to the girl. He therefore requested Nicarete to come to the mysteries and bring Metanira, that she might be initiated, and he promised himself to initiate her. When they arrived here, Lysias did not bring them to his own house, having too much respect for his wife, who was the daughter of Brachyllus and his own niece, and also for his mother, who was advanced in age and dwelt under the same roof: but he lodged them (Metanira and Nicarete) in the house of Philostratus of Colonus, an unmarried youth and a friend of his. Neæra the defendant accompanied them. She had already begun the trade of a prostitute, although she was scarcely of the proper age. To prove these facts—that Neæra was a slave of Nicarete, and that she followed in her train, and that she prostituted her person to any one that chose to pay for it—I will call Philostratus himself before you as a witness.

THE DEPOSITION.

"Philostratus, son of Dionysius, of Colonus, deposes, that he knows, that Neæra was a slave of Nicarete, to whom Metanira also belonged, and that she lodged at his house, when they came to Athens to the mysteries, being at that time resident at Corinth; and that Lysias, the son of Cephalus, an intimate friend of his brought them to his house."

Again, men of Athens, after this, Simus the Thessalian came here with Neæra, to the great Panathenæa. Nicarete came with her, and they lodged with Ctesippus, the son of Glauconides, of Cydantidæ: and the defendant Neæra drank and dined with them in the presence of company, just as a loose girl would do. I will call witnesses before you to prove my statements. Please to call Euphiletus, son of Simon, of Aixone, and Aristomachus, son of Critodemus, of Alopece.

WITNESSES.

"Euphiletus, son of Simon, of Aixone, Aristomachus, son of Critodemus, of Alopece, depose, that they know that Simus the Thessalian came to Athens to the great Panathenæa; and that Nicarete and Neæra, the defendant in this cause, came with him; and that they lodged with Ctesippus the son of Glauconides, and that Neæra drank with them, as a loose girl would do, in the presence of many other guests of Ctesippus."

After this she openly lived as a woman of ill fame at Corinth, and acquired much celebrity; and she had various lovers, and (among others) Xenoclides the poet, and Hipparchus the actor, who took her on hire. To prove the truth of my statement—I am not able to produce to you the testimony of Xenoclides, who is not permitted by the laws to give evidence: for when you, under the advice of Callistratus, resolved to assist the Lacedæmonians, he opposed the vote of succour in the assembly,[1] after having farmed the two per cent.

[1] "Commemorantur hic tres causæ sat graves probabilesque, cur Xenoclides existimarit ab hâc expeditione sibi cessandum esse: (1) quod illi expeditioni, cum adhuc deliberatione agitaretur, adversatus esset eamque dissuasisset; (2) quod per muneris sui negotia ne mensem quidem urbe abesse posset, quippe qui vectigal frumenti redemisset, quod frumentum e Ponto, Siciliâ, et Ægypto in portum Atticum invehebatur: debebat autem hoc vectigal menstruis ferme portionibus per prytanias, h. e. novâ quâque prytaniâ ineunte dependi; (3) quod leges

corn-duty in time of peace, and being bound to make his payments into the council-chamber in every presidency, and having an exemption by the laws, he did not go out on that expedition, and was therefore indicted by Stephanus for neglect of military duty, and being denounced by his accuser in court, he was convicted and deprived of his franchise. Don't you think it monstrous, that this Stephanus, after taking away the privilege of speech from genuine and natural-born citizens, should force into your community people who don't belong to it, in defiance of all the laws? I will call Hipparchus himself before you, and compel him to depose or take the oath of disclaimer according to law, or I will subpœna him. Please to call Hipparchus.

THE DEPOSITIONS.

"Hipparchus of Athmonia, deposes, that Xenoclides and himself hired Neæra, the defendant in this cause, at Corinth, as a girl who prostituted her person for money, and that Neæra used to drink at Corinth with him and Xenoclides the poet."

After this she had two lovers, Timanoridas the Corinthian, and Eucrates the Leucadian, who, as Nicarete was extravagant in her demands, requiring them to defray all the daily expenses of her household, paid down thirty minas to Nicarete as the price of Neæra's person, and purchased her out and out from her mistress, according to the law of that city, to be their slave. And they kept her and made use of her as long as they liked. But, when they were about to marry, they gave her notice, that they did not wish to see her, who had been their mistress, living by prostitution or kept in a brothel at Corinth; but they would be glad to receive less money from her than they had paid and to see her doing something for her own advantage. They offered therefore to allow her a thousand drachmis, five hundred each, towards the purchase

redemptori hujus vectigalis vacationem a militiâ darent. Propter has tres causas itaque Xenoclides domi manserat, et nihilominus tamen a Stephano accusatus mulctatus est."—Reiske.

"Vere Reiskius, nisi quod quam primam dixit causam sic finire debuit; quod expeditionis adversatus est, ut qui vectigal frumenti pacis tempore redemisset sub conditionibus, quas bellum susceptum tolleret. Alioqui τὸ ἀντειπεῖν non potuit excusare τὸ οὐκ ἐξελθεῖν."—Schäfer.

of her freedom; and told her to raise the twenty minas to pay them. Upon this intimation from Eucrates and Timanoridas, Neæra sends to divers of her former lovers, asking them to come to Corinth; and (among others) she sends to Phrynio[1] of Pæania, the son of Demon and brother of Demochares, a man who lived an extravagant and licentious life, as the oldest of you remember. Phrynio came to her, and she told him the offer which I have mentioned, made to her by Eucrates and Timanoridas; she gave him the amount of the contributions which she had collected from her other lovers to purchase her freedom, together with her own savings, and asked him to advance the remainder, that was yet wanting to make up the twenty minas, and pay it to Eucrates and Timanoridas for her enfranchisement. He was delighted to hear this proposal from her; he took the money which had been contributed for her by her other lovers, made up the remainder himself, and paid the twenty minas to Eucrates and Timanoridas to purchase her freedom, on the condition that she should not exercise her trade at Corinth. To prove the truth of my statements, I will call this man who was present as a witness before you. Please to call Philagrus of Melita.

THE DEPOSITION.

"Philagrus of Melita deposes, that he was present in Corinth, when Phrynio, the brother of Demochares, paid down twenty minas as the purchase money of Neæra, the defendant in this cause, to Timanoridas the Corinthian and Eucrates the Leucadian: and having paid the money, he took away Neæra to Athens."

After he had brought her to Athens, he lived with her in a most indecent and reckless way, took her everywhere with

[1] "Phrynio hic cognatus erat Demosthenis. Unde tanto fit probabilius a Demosthene conscriptam esse hanc orationem, præsertim cum Apollodorus idem et idem Stephanus partes hic suas agant, quorum pro illo tot aliæ exstant Demosthenis orationes, et contra hunc duæ: quas orationes nemo unquam in dubium vocavit quin sint nostri oratoris." —Reiske.

"Mirabilis vero hæc est argumentatio. Quin tanto fit improbabilius a Demosthene conscriptam esse hanc orationem. Quis enim, qui quidem cordatus sit, in animum facile inducat cognatum ut ἀσελγῶς διάγοντα τὸν βίον traducere? Lege mihi quæ sequuntur. v. 28. Tam turpia Demosthenem de cognato effutivisse quis credat?"—Schäfer.

him to dinners, where there was drinking; and she was with him at all his riotous parties, and he had connexion with her openly whenever and wherever he pleased, making a display of his privilege to the beholders. He took her to various houses to parties of pleasure, and (among others) to that of Chabrias of Aixone, when, in the archonship of Socratides, he won the race at the Pythian games with his chariot and four, which he purchased from the sons of Mitys the Argive, and, on his return from Delphi, gave a banquet to celebrate the victory at Colias.[1] Many at that party had connexion with her when she was drunk, and while Phrynio was asleep; among others, the servants of Chabrias, who set a table for the purpose. To prove these statements, I will produce before you as witnesses persons who were present and saw the thing done. Call me Chionides of Xypete and Euthetion of Cydathenæum.

THE DEPOSITION.

"Chionides of Xypete, Euthetion of Cydathenæum, depose, that they were invited to dinner by Chabrias, when Chabrias gave a banquet to celebrate his victory in the chariot-race, and that the banquet was given at Colias, and they know that Phrynio was at that dinner with Neæra, the present defendant, and they (the deponents) and Phrynio and Neæra lay down to rest, and they (the deponents) perceived that divers persons got up in the night to go to Neæra, and (among them) some of the attendants who were domestics of Chabrias."

When she was so outrageously maltreated by Phrynio, instead of being cherished as she expected, or having her wishes gratified by him, she packed up his household effects and all the clothes and jewellery which he had provided for her, and taking them with her, together with two female servants, Thratta and Coccalina, runs away to Megara. This happened when Asteius was archon at Athens, at the time when you were waging your second war with the Lacedæmonians. After staying in Megara two years, that of the archonship of Asteius and that of Alcisthenes, as the trade of prostitution did not provide money enough to keep her house —she was expensive in her habits, and the Megarians were mean and illiberal, and there were not many foreigners there

[1] A promontory of Attica.

because it was war time and the Megarians laconised and you had command of the sea; and it was impossible for her to return to Corinth, because she had got her freedom from Eucrates and Timanoridas on the condition of not exercising her trade at Corinth—when therefore the peace was made in the archonship of Phrasiclides, and the battle was fought at Leuctra between the Thebans and the Lacedæmonians, Stephanus the defendant having come to Megara, and having put up at her house and had connexion with her as a woman of the town, she related to him her history and the brutal treatment of Phrynio, and she gave him what she had taken away from Phrynio's house, and, as she was desirous of residing at Athens, but was afraid of Phrynio, because she had wronged him and he was exasperated against her, and she knew him to be a person of impetuous and violent temper, she therefore took Stephanus the defendant for her patron. He buoyed her up with hope at Megara, declaring that Phrynio should catch it if he touched her, and that he himself would keep her as his wife, and would introduce the sons that she then had to his clansmen, and pass them off as his own and make them citizens, and that no mortal should do her any harm: he then took her away with him from Megara and brought her to Athens, together with her three children, Proxenus and Ariston, and a daughter, whom now they call Phano. And he brings her and the children to the small house which he had by the whispering Hermes,[1] between the house of Dorotheus the Eleusinian, and that of Cleinomachus, which now Spintharus has bought from him for seven minas; so that this was the property which Stephanus then possessed, and nothing more. He had two objects in bringing her here: first, that he might keep a nice mistress without cost, and secondly, that she might provide him with the necessaries of life and maintain his house: for he had no other source of income, except what he might get by pettifoggery. When Phrynio heard that Neæra was in Athens and living with this man, he took some youths with him, and coming to the house of Stephanus, attempted to carry her off. Stephanus asserted

[1] "Unter diesem Beinamen, welcher sich entweder auf gewisse gottesdienstliche Gebräuche oder auf die den Gottheiten zugeschriebene geheimnissvolle Thätigkeit bezog, hatte Merkur eine Bildsäule in Athen: eben so auch Eros und Aphrodite."—Pabst's note.

her freedom according to law, and thereupon Phrynio held her to bail before the polemarch.

To prove the truth of these statements, I will produce the person who was then polemarch before you as a witness. Please to call Aetes of Ceiriadæ.

THE DEPOSITION.

"Aetes of Ceiriadæ deposes, that, when he was polemarch, Neæra, the defendant in this cause, was held to bail by Phrynio, the brother of Demochares, and that Stephanus of Erœadæ, Glaucetes of Cephisia, and Aristocrates of Phalerum, became bail for Neæra."

Having been thus bailed by Stephanus, and living at his house, she continued to carry on the same trade as before, but asked larger recompense from those who sought her favours, as she was now keeping up a good appearance and passing for a married woman. Stephanus assisted her in her plots, and whenever he found a rich and unknown stranger intriguing with her, he locked him up as if he had been caught in adultery with her, and extorted a large sum of money from him. And this is not very surprising: for neither Stephanus nor Neæra had any property to support their daily expenses; and the cost of their establishment was considerable, when they had to maintain their two selves and three children, whom Neæra had brought with her from Megara, and two female servants and one male attendant; and besides, Neæra had not been accustomed to live sparingly, having had people to find everything for her before. Stephanus was getting nothing worth mentioning from public business; for as yet he was not an orator, but a pettifogger only, (one of those that stood by the platform and shouted, who preferred indictments and informations for hire, and allowed their names to be affixed to other men's motions,[1]) until he became a hanger-on of Callistratus the

[1] Designat eos, qui se patererentur pro mercedula legis aut sciti alicujus, quod alius auctor latum vellet, auctores scribi et præscribi. Erant enim, qui, cum suadere populo aliquid vellent, discrimen tamen mulctæ aut infamiæ subeundum, si lex sua improbaretur, reformidarent: quapropter alios, quibus opesque nullæ et famæ suæ nulla cura esset, obscuros et pauperes quosdam homines, subornabant, qui paterentur se in ejusmodi legis aut sciti fronte pro auctoribus scribi."—Reiske.

Aphidnæan: how that came about and for what cause, I will explain to you, when I have gone through the history of Neæra, and shown that she is an alien and has committed grievous offences against you and acts of impiety to the gods: for I wish you to understand that Stephanus himself deserves full as heavy a punisment as Neæra, nay, a much heavier, and that he is far more guilty, inasmuch as, while he calls himself an Athenian citizen, he treats you and the laws and the gods with such supreme contempt, that he cannot even be quiet for shame at his own misdeeds, but by his vexatious attacks upon me and other people he has caused my friend here to bring this serious prosecution against Neæra and himself, upon which her origin and position must be inquired into, and his profligacy exposed.

Phrynio having commenced an action against him, because he asserted the freedom of his slave Neæra, and because he had received the property which Neæra went away with from his house, their friends brought them together and persuaded them to refer the dispute to their arbitration. And on Phrynio's behalf Satyrus of Alopece, the brother of Lacedæmonius, sat as arbitrator; on behalf of Stephanus the defendant, Saurias of Lampra: and they chose Diogiton of Acharnæ as umpire between them. The three met in the temple, and, after hearing the facts of the case from both parties and from the woman herself, they delivered their judgment, and these men abided by it; namely, that the woman should be free and her own mistress, but that she should return to Phrynio all the effects which she had gone away with from his house, except the clothes and jewels and female servants, which were bought for the woman herself; and that she should cohabit with each of them on alternate days, or that any other arrangement which they might agree to should stand good; and that she should be maintained by the one who had her in keeping for the time being; and that they should be friends from that time and bear no malice against each other. Such was the reconciliation effected by the judgment of the arbitrators between Phrynio and Stephanus and Neæra the defendant. He shall read you the evidence to prove the truth of my statements. Call, if you please, Satyrus of Alopece, Saurias of Lampra, and Diogiton of Acharnæ.

THE DEPOSITION.

"Satyrus of Alopece, Saurias of Lampra, Diogiton of Acharnæ, depose, that they having been appointed arbitrators in the matter of Neæra, the defendant in this cause, reconciled Stephanus and Phrynio; and that the terms of reconciliation were such as Apollodorus produces."

TERMS OF RECONCILIATION.

"They have reconciled Phrynio and Stephanus upon the terms following, namely, that each party shall keep at his house and have the use of Neæra an equal number of days in the month, unless they shall agree to any different arrangement."

When the friends of either party who had assisted in the arbitration and the whole affair had thus discharged their duty, they did what I believe is usual in all such cases, especially where the dispute is about a mistress—they went to dine with each of the parties, when they took their turns of having Neæra with them, and Neæra dined with them and drank with them as mistresses commonly do. To prove the truth of these statements—please to call as witnesses the guests who were present, Eubulus of Probalinthus, Diopithes of Melita, Cteson of Ceramicus.

THE DEPOSITION.

"Eubulus of Probalinthus, Diopithes of Melita, Cteson of Ceramicus, depose, that, after the reconciliation in the matter of Neæra had been effected between Phrynio and Stephanus, they frequently dined with them and drank in company with Neæra, the defendant in this cause, as well when Neæra was at the house of Stephanus, as when she was at the house of Phrynio."

I have thus shown to you, and it has been proved by the evidence of witnesses, that Neæra was originally a slave, that she was sold twice, that she gained a living by prostitution as a woman of the town, that she ran away from Phrynio's house to Megara, and that, upon her return to Athens, she was held to bail as an alien before the polemarch. I shall now proceed to prove to you that Stephanus himself has given evidence against her, showing her to be an alien.

The daughter of the defendant Neæra, whom she brought

a young girl to the house of Stephanus, and whom they then called Strybele, but they now call Phano, was given in marriage by Stephanus as his own daughter to an Athenian citizen named Phrastor, of the Ægilian township; and a marriage portion of thirty minas was given with her. When she went to live with Phrastor, a hard-working man, who had acquired his means by industry and frugality, she could not conform herself to his character, but hankered after her mother's ways and the dissolute mode of living in her house, as well she might, after being brought up in such licentiousness. Phrastor, perceiving that she behaved indecorously and would not submit to his rule, and having also ascertained that she was the daughter of Neæra and not of Stephanus—(he had been deceived at the time of his espousal, receiving her as the daughter not of Neæra, but of Stephanus by an Athenian wife, to whom he had been married before he lived with Neæra;) irritated by all this, and considering that he had been insulted and taken in, he turns the woman out of doors, after she had lived with him about a twelvemonth, and when she was in a state of pregnancy, and refuses to return her marriage portion. Stephanus commenced a suit against him for alimony in the Odeum according to the law, which enacts that, if a man puts away his wife, he shall return her marriage portion, or pay interest upon it at eighteen per cent. per annum, and that the wife's guardian may sue him in the Odeum for alimony: Phrastor then prefers an indictment against Stephanus before the judges, under the statute which I am about to read, charging that Stephanus, being an Athenian, had betrothed to him the daughter of a foreign woman as his own. Please to read the law.

THE LAW.

"If any one shall give a foreign woman in marriage to a citizen of Athens, representing her as belonging to himself, he shall be disfranchised, and his property shall be confiscated, and the third part thereof shall be given to the person who has procured his conviction. And it shall be lawful for any one, of the citizens possessed of such right, to indict the person so offending before the judges, as in the case of usurpation of citizenship."

He has read you the law, by virtue of which Stephanus the defendant was indicted by Phrastor before the judges Stephanus, knowing that, if he were convicted of having given in marriage the daughter of a foreign woman, he would incur the severest penalties, comes to terms with Phrastor, renounces his claim to the marriage portion, and withdraws the record in the suit for alimony; Phrastor at the same time withdrawing the indictment from the judges. And to prove the truth of these statements, I will call Phrastor himself as a witness before you, and will compel him to give evidence according to law. Please to call Phrastor of Ægilia.

THE DEPOSITION.

"Phrastor of Ægilia deposes, that, when he discovered that Stephanus had given the daughter of Neæra in marriage to him as his own daughter, he preferred an indictment against him before the judges, according to law, and turned the woman out of his house and did not live with her any longer, and that, after Stephanus had commenced a suit against him in the Odeum for alimony, Stephanus compromised with him, upon the terms that the indictment should be withdrawn from the judges, and the record in the suit for alimony, which Stephanus commenced against this deponent, should be likewise withdrawn."

Now let me produce before you another deposition by Phrastor and the members of his clan and family, to prove that Neæra the defendant is an alien. Not long after Phrastor had put away Neæra's daughter, he fell ill and became very bad and in a state of helpless prostration. There was a quarrel of long standing between him and his relations, whom he regarded with bitter hostility; and he was childless also. Beguiled in his illness by the attentions of Neæra and her daughter—(for they visited him, when he was ill, and when he had no one to attend upon his sick-bed, and brought him all the proper medicines and looked after all his wants: you know of course the great comfort of a woman's nursing to an invalid:)—Phrastor was induced to take back and adopt as his son the child, which Neæra's daughter brought forth when she was dismissed from his house in a state of pregnancy, when he learned that she was the daughter of Neæra and not of Stephanus, and was so

wroth about it. Feeling now, as was very natural, that he was in a precarious state without much hope of recovery, and desiring that his relations should not take his property and that he should not die childless, he adopted the boy and received him back in his house. That he would never have done so in a state of health, I will show you by a strong and decisive proof. For, as soon as Phrastor recovered from that illness, and got well and strong again, he contracted a marriage according to law with an Athenian woman, the daughter of Satyrus of Melita, and sister of Diphilus. Let this then be taken for a proof, that he received the child not voluntarily, but compelled by his sickness, by his childless state, by their attentions in nursing him, and by his dislike of his relations, and his wish that they should not inherit his property in case anything should happen to him. It will appear however still more clearly from the sequel. For when Phrastor at the time of his illness introduced the boy, as his son by Neæra's daughter, to his clansmen, and also to the Brutidæ, the family to which he himself belongs, the members of the family, knowing (I believe) who the woman was that Phrastor had first married, namely that she was the daughter of Neæra, and knowing about her divorce, and that Phrastor had been induced through his illness to take her child back again, passed a vote to exclude the boy and refused to enter him in their register. Phrastor having commenced an action against them, for refusing to enter his son in the register, the members of the family challenged him before the arbitrator to swear by the full-grown victims, that he verily believed the boy to be his own son by an Athenian woman lawfully married to him. Upon this challenge being given by the members of the family to Phrastor before the arbitrator, he declined the oath and would not swear.

To prove the truth of these statements, I will produce as witnesses before you those members of the Brutid family who were present.

WITNESSES.

"Timostratus of Hecale, Xanthippus of Erœadæ, Eualces of Phalerum, Anytus of Lacia, Euphranor of Ægilia, Nicippus of Cephale, depose, that they and Phrastor of Ægilia are members of the family called Brutidæ, and that, when

Phrastor requested permission to introduce his son to the family, they, knowing that he was the son of Phrastor by Neæra's daughter, would not permit Phrastor to introduce the son."

I thus show you in the clearest possible manner, that the most intimate connexions of the defendant Neæra have themselves testified against her, and proved her to be an alien—both Stephanus who now keeps and cohabits with her, and Phrastor who married her daughter—Stephanus, inasmuch as he did not choose to go to trial on his daughter's behalf, but renounced her claim to the marriage portion and never recovered it, after Phrastor had preferred an indictment against him before the judges, charging that, being an Athenian citizen, he had given to him in marriage the daughter of a foreign woman—and Phrastor, inasmuch as he turned out of doors the daughter of Neæra the defendant, whom he had wedded, when he learned that she was not the daughter of Stephanus, and did not return her marriage portion, and when afterwards he had been induced through his illness and his childless state and his dislike of his relations to adopt her child, and when he sought to introduce him to the members of his family, upon their passing a vote of rejection and tendering him an oath, he declined to swear for fear of committing perjury, and afterwards married another woman of civic origin according to law. These facts, which are beyond all dispute, afford the strongest evidence against them, proving Neæra the defendant to be an alien.

Mark now the base covetousness and profligacy of the defendant Stephanus. From this also you may see that Neæra is not a woman of civic birth. There was a man named Epænetus, an Andrian, who was an old lover of Neæra, and had spent a vast deal of money upon her, and used to lodge at their house, whenever he came to Athens, on account of his attachment to Neæra. Against this person Stephanus the defendant laid a plot. He sent for him into the country under pretence of a sacrifice, and then surprised him in adultery with Neæra's daughter, and extorted from him by intimidation thirty minas, for which he accepted as sureties Aristomachus, the late judge, and Nausiphilus, the son of Nausinicus, the late archon, and then released him under an engagement to pay the money. Epænetus, when

he had got clear away and was no longer under durance, preferred an indictment against Stephanus before the judges, for falsely imprisoning him on pretence of adultery, according to the law which enacts that, if a man has falsely imprisoned another on a charge of adultery, the party aggrieved may indict him for such imprisonment before the judges, and, if he convicts the defendant and proves that a snare has been laid to entrap him, he and his sureties shall be discharged from their engagement, but, if it shall appear that he was an adulterer, then the sureties shall deliver him up to the person who took him in adultery, who may inflict instantly in court what corporal punishment he pleases, so that he uses no weapon of steel. According to this law, Epænetus indicted Stephanus, and he acknowledged that he had had intercourse with the woman, but denied that he was an adulterer in point of law; for (he said) she was not the daughter of Stephanus, but of Neæra, and her mother knew that she had connexion with him, and he had spent a vast deal of money upon them, and used to maintain the whole house when he came to Athens. And with that he produced the law, which forbids the taking of any one in adultery with women who sit in a brothel, or openly offer themselves for prostitution [1] in the market-place; for that, he said, was a brothel, the house of Stephanus namely, and such was their trade, and they got most of their living by it. Upon his using this language and having brought the indictment, Stephanus the defendant, knowing that he should be convicted of being a brothel-keeper and a pettifogger, refers his dispute with Epænetus to the very men who were his sureties, upon the terms that they should themselves be released from their guarantee, and that Epænetus should withdraw the indictment. Epænetus having assented to these terms, and having withdrawn the indictment which he had preferred against Stephanus, a meeting took place between them, and the sureties sat as arbitrators, and Stephanus had not a word to say upon the merits of the case, but requested Epænetus to contribute something to make up a dowry for Neæra's daughter, urging his own poverty, and the ill-luck which the

[1] Adopting the reading πωλῶνται. So Pabst—"oder auf dem Markte sich öffentlich verkaufen." See the Charicles, Excursus on the Markets, page 282, Translation.

woman had formerly had in her connexion with Phrastor, and the loss of her dowry, and the impossibility of his finding another to give her in marriage with. "You"—said he—"have enjoyed her favours, and you ought to do something for her"—these and other words he spoke to excite compassion, such as might be expected from a man petitioning in a scurvy case. The arbitrators, after hearing both sides, effected a reconciliation between them, and persuaded Epænetus to give a thousand drachms towards a marriage portion for Neæra's daughter.

To prove the truth of all these statements, I will call the sureties themselves and the arbitrators to give testimony before you.

WITNESSES.

"Nausiphilus of Cephale, Aristomachus of Cephale, depose, that they were sureties for Epænetus the Andrian, when Stephanus said that he had caught Epænetus in adultery, and that, after Epænetus had left the house of Stephanus and was no longer under restraint, he preferred an indictment against Stephanus before the judges, alleging that he had falsely imprisoned him; and that they (the deponents), having been chosen as arbitrators to reconcile Stephanus and Epænetus, effected a reconciliation between them, and the terms thereof were those which Apollodorus produces."

TERMS OF RECONCILIATION.

"The arbitrators have reconciled Stephanus and Epænetus upon the terms following (that is to say), that there shall be an amnesty for what took place in regard to the imprisonment, and that Epænetus shall give a thousand drachms to Phano for her marriage portion, since he has frequently enjoyed her favours, and that Stephanus shall deliver Phano to Epænetus, when he comes to Athens and desires to have connexion with her."

Now hear the next case. Though this young woman had been thus publicly acknowledged to be an alien, and though Stephanus had ventured to charge a man as caught in adultery with her, yet Neæra and he had reached such a pitch of impudence, that they were not content with passing her off as a woman of Athenian parentage; but seeing that Theogenes of Cothocidæ was drawn for king-archon, a man of good birth, but poor and ignorant of business, Stephanus,

having assisted him at his probation and lent him money, when he entered upon his office, insinuated himself into his confidence, and purchased from him the office of assessor; after which he gave him in marriage this woman, the daughter of Neæra, affiancing her as his own daughter: such contempt did he show for you and for the laws. And this woman offered up the mysterious sacrifices for the welfare of the state, and saw what it was not right for her to see, being an alien, and, notwithstanding what she was, entered places to which, out of the whole Athenian community, no one but the wife of the king-archon is admitted, and she administered the oath to the venerable priestesses[1] who officiate at the sacrifices, and was given in marriage to Bacchus, and performed on behalf of the state divers religious ceremonies of a solemn and mysterious kind. Ceremonies which may not even be heard by all, how can they be performed without impiety by an ordinary woman, especially such a woman as this, and one who has lived such a life?

I wish however to enter somewhat more into detail concerning these matters, and to give you an historical explanation of them, that you may be more careful respecting the punishment of this offence, bearing in mind that you will have to pronounce sentence not only on behalf of yourselves and the laws, but for the honour of the gods, to avenge insulted religion and to punish the impious offenders.

Anciently, men of Athens, there was a regal dynasty in Attica, and the sovereignty belonged to those who were most distinguished from time to time by reason of their being indigenous, and the king offered all the sacrifices, and at the most holy and mysterious his wife officiated, as it was reasonable she should, being queen. After Theseus had united his countrymen in one city and established democracy, and the city had become populous, the people continued to elect the king as before, choosing him out of the class most eminent for personal merit, and they passed a law that his wife should be of Athenian parentage, and that he should marry a virgin who had never known another man, so that the mystic sacrifices might be offered on behalf of the state according to ancient usage, and that religious worship should be duly

[1] Fourteen women who officiated at the mysteries of the Anthesteria. See Arch. Dict. Title *Dionysia.*

paid to the gods without any retrenchment or innovation. And they wrote this law on a pillar of stone, and set it up in the temple of Bacchus by the altar in Limnæ. And this pillar stands even now, exhibiting the inscription in obscure Attic characters.[1] The people gave this testimony of their piety to the god, and left it as a pledge to posterity, showing what they required the woman to be, who was to be wedded to the god[2] and to perform the sacrifices. And on this account they set it up in the most ancient and holy temple of Bacchus in Limnæ, that the inscription might not be seen by many; for it is only opened once every year, on the twelfth day of the month Anthesterion. Therefore, men of Athens, it is right that you also should show your respect for these sacred and solemn rites, for the celebration of which your ancestors have so honourably and magnificently provided; and you should punish those who insolently defy your laws, and who commit outrages against your religion, for two reasons, first, that they may pay the penalty of their crimes, and secondly, that others may take warning and may be afraid to sin against the gods and the commonwealth.

I wish now to call before you the sacred herald, who attends upon the wife of the king-archon, when she administers the oath to the venerable priestesses, bearing their baskets[3] before the altar, before they touch the victims:[4] that you may hear the oath and the words which are pronounced, so much at least as you are allowed to hear, and that you may understand how solemn and holy and ancient these customs are.

THE OATH OF THE PRIESTESSES.

"I keep myself chaste, and am pure and unstained of all which pollutes and of commerce with man, and I solemnize the wine-feast and the Iobacchic feast in honour of Bacchus according to the custom of the country and at the appointed periods."

[1] Auger—"en caractères attiques presqu'effacés." In his note—"C'est à dire, en caractères anciens. Suivant Harpocration, les caractères Ioniens, qui composoient les vingt-quatre lettres, et qui furent depuis en usage, ne furent inventés que fort tard."

[2] Reading Διονύσῳ, instead of σοί.

[3] Containing the salt meal, which was thrown on the head of the victim.

[4] Auger—"objets sacrés."

You have heard the oath and the ancient usages of the country, as far as it is possible to speak of them, and how the woman, whom Stephanus affianced as his daughter to Theogenes, when king-archon, performed these sacred rites and administered the oath to the venerable priestesses; and you have been informed, that even the women who solemnise these rites are not allowed to speak of them to any one else. Now let me produce to you a piece of evidence, which has been given in secret, but which I shall show by the facts themselves to be certain and true.

When these rites had been solemnised, and the nine archons had gone up to the Areopagus at the appointed time, the Areopagic Council, whose services to the state in regard to religion are generally so valuable, proceeded at once to make inquiries about this wife of Theogenes, and discovered who she was, and proposed, in their zeal for the interests of religion, to fine Theogenes in the highest sum which they can by law. Their measures were taken cautiously and in secret; for they have not an absolute power to punish any Athenian as they please. They gave him a hearing, and Theogenes, seeing that the council were indignant, and were prepared to fine him for having married such a wife and allowed her to perform the mystic sacrifices for the state, had recourse to the most humble prayers and entreaties, alleging that he did not know her to be the daughter of Neæra, but that he was deceived by Stephanus, and married her according to law as his legitimate daughter, and that by reason of his ignorance of public business and in perfect innocence and simplicity he had made Stephanus his assessor, that he might discharge his official duties, supposing him to be a friend, and on that account he had become his son-in-law. And—said he—"I will give you the strongest and plainest proof that I speak the truth. I will dismiss the woman from my house, as she is the daughter of Neæra and not of Stephanus. And if I do so, I trust you will believe my assertion that I was deceived: if I fail to do so, then punish me as a base man, guilty of impiety to the gods." Upon his making this promise and request, the Council of Areopagus, having compassion on him as a simple-minded man, and thinking that he had been in reality deceived by Stephanus, suspended their judgment. Theogenes, immediately after he had returned

from the Areopagus, turns his wife, Neæra's daughter, out of his house, and expels the defendant Stephanus, who had deceived him, from the magisterial board. And so the Areopagites abandoned their proceedings against Theogenes, relenting from their anger, and forgiving him on account of the imposture which had been practised on him.

To prove the truth of these statements, I will call Theogenes himself before you as a witness, and I will compel him to give evidence. Please to call Theogenes of Ercheia.[1]

THE DEPOSITION.

"Theogenes of Ercheia deposes, that, when he held the office of king-archon, he married Phano as being the daughter of Stephanus, and that, when he found he had been deceived, he turned the woman away and no longer cohabited with her, and dismissed Stephanus from the assessorship and no longer allowed him to act as his assessor."

Now, take the law which I hold in my hand, in reference to these matters, and read it to the jury; that they may see, that a woman of such an origin and such a character ought not only to have kept away from these ceremonies, to have abstained from witnessing them, from offering sacrifice, and performing any religious services on behalf of the state, but she should have been excluded from every place of public worship in Athens. For a woman who has been caught in adultery is no longer permitted to attend any of the public sacrifices, not even those which an alien or a slave has a right by law to attend either as suppliant or spectator. Such women, those I mean who have been caught in adultery, are alone forbidden by the laws to attend our public sacrifices, and, if they come to them in defiance of the laws, they may suffer any maltreatment, short of death, from any person that likes to inflict it, with impunity. The law allows any person who happens to encounter such a woman to vindicate our insulted religion. And on this account the law declares, that she may suffer any outrage short of death without right of legal redress, in order that our places of public worship may not be polluted or profaned, and that our women may,

[1] As Theogenes is before described as belonging to the township of Cothocidæ, the reading ἀρψιερέα, which occurs in one manuscript, seems preferable.

under the influence of a salutary terror, be led to behave themselves discreetly, to abstain from doing wrong, and keep to their domestic duties: for it teaches them that, whoever is guilty of any offence of this nature, will at the same time be expelled from her husband's house and from the temples of the city.

You shall hear the law itself, and then you will know that I am not deceiving you. Please to take the law.

THE LAW OF ADULTERY.

"And when he has caught the adulterer, it shall not be lawful for the person who has so caught him to cohabit with his wife; and if he does cohabit with her, he shall be disfranchised. And it shall not be lawful for the woman, who has been caught in adultery, to attend the public sacrifices; and if she does attend them, she may suffer any maltreatment short of death with impunity."

I wish now, men of Athens, to produce to you the testimony of the whole Athenian people, to show you how deep an interest they take in these religious ceremonies, and what care they have taken to guard their sanctity. The people of Athens, being the supreme power in the state, and having the absolute right to do what they please, regarded the gift of Athenian citizenship as a thing so honourable and so noble, that they passed restrictive laws defining in what way citizens should be created, which laws have now been trampled on by the defendant Stephanus and the persons who have contracted such marriages. You will be the better for hearing them recited, and you will know how these people have profaned the most honourable and noble gifts which are conferred upon benefactors to your country.

In the first place, there is a law binding on the people, forbidding them to create a citizen, who does not deserve to become such on account of signal services to the Athenian state. In the next place, when the people have been prevailed upon and have bestowed the gift, their creation of a citizen is not allowed to be valid, unless in the ensuing assembly it is confirmed by more than six thousand Athenians voting secretly by ballot. And the presidents are commanded by the law to place the ballot-boxes and give the balls to the people as they come up, before the strangers

enter and remove the stalls,[1] in order that every Athenian may exercise an independent judgment as to the person whom he means to create a citizen, whether such person is worthy of the gift which he is about to receive. And after this, it gives an indictment against him for an illegal measure to any Athenian that pleases, who may come into court and prove that the new citizen is not worthy of the gift, but has been created such contrary to the laws. And it has happened ere now that, after the people had conferred the gift of citizenship at the request of persons who deceived them, an indictment for an illegal measure has been preferred and brought to trial, and the person who received the gift has been proved to be unworthy of it, and the court has taken it away from him. To enumerate the cases which have occurred in ancient times would be tedious; I will mention those only which you all remember, of Pitholas the Thessalian and Apollonides the Olynthian, who, having received the grant of citizenship from the popular assembly, were deprived of it by the court of justice. These are modern examples, and you cannot have forgotten them.

Wise and stringent as are these constitutional laws, defining the measures necessary to be taken for the creation of citizens; there is, in addition to them, another established law of the greatest importance: such forethought had the people for themselves and for the gods, that our public sacrifices should be offered with all due devotion and solemnity. The law expressly declares that, when citizens have been created by the people of Athens, they shall not be eligible to the offices of the nine archons, or to hold any priesthood; though their descendants are allowed by the people to share all civic rights, with this condition, that their mothers must be women of Athenian birth and affianced according to law. I will prove the truth of these statements by testimony of the clearest and strongest kind. But first let me explain to you the original foundation of the law, and show you how it came to be passed and to whom its provisions related, and what

[1] Pabst—"die Buden wegzuschaffen." Harpocration supposes that the wattles, or whatever the γέῤῥα may have been, were used to block up the approaches to the Pnyx, till the voting was over. See Becker's Charicles, Excursus on the Markets, page 285, Translation; and compare the Oration on the Crown, Vol. II. of this work, page 68.

gallant men they were and what firm friends they had been to the people of Athens. From all this you will see how that honour which the people reserve for their benefactors has been degraded, and what important privileges are withdrawn from your disposal by Stephanus the defendant, and by those who have married and begot children in the same way that he has.

The Platæans, men of Athens, were the only Greek people who came to your assistance at Marathon, when Datis, the general of king Darius, returning from Eretria after having subjugated Eubœa, landed on our shores with a large force and ravaged the country. And the picture in the painted portico exhibits to this day the memorial of their valour: for each of them is represented hastening to your succour with all possible speed, the whole body being distinguished by their Bœotian caps. Again when Xerxes invaded Greece, and the Thebans went over to the Medes, they (the Platæans) refused to abandon our alliance, and, separating themselves from the rest of the Bœotians, one half of them joined the Lacedæmonians and Leonidas, withstood the advance of the barbarians at Thermopylæ, and fell in that field of battle with their allies; while the remainder embarked in our triremes, as they had no vessels of their own, and assisted you in the seafights at Artemisium and Salamis. And they fought in the last battle at Platæa with Mardonius, the king's general, in conjunction with you and those allied with you for the liberation of Greece, and the liberty which they won they deposited as a common prize for the whole Greek community. When Pausanias, king of the Lacedæmonians, presumed to put an insult upon you, and was not content that his countrymen were honoured with the sole command by the Greeks, and that your state, while in truth she led the Greeks to freedom, forbore to strive for precedency with the Lacedæmonians, for fear of exciting envy among the allies—I say, when Pausanias, king of the Lacedæmonians, puffed up with these honours, inscribed a distich upon the tripod at Delphi, which the confederate Greeks who had fought at Platæa and Salamis had constructed jointly and had offered to Apollo as a memorial of their victory over the barbarians—which distich is as follows:—

He that hath vanquish'd the Mede, Pausanias, leader of Hellas,
This grateful monument unto Apollo presents:

as if the achievement and the offering were his own, and not the common work of the allies—the Greeks being in wrath at this, the Platæans, on behalf of the whole confederacy, commence a suit against the Lacedæmonians before the Amphictyons for a thousand talents, and compelled them to erase those verses, and to engrave the names of all the states which had taken part in the battle. By this they drew upon themselves the bitter hatred of the Lacedæmonians and the royal family of that state. For the moment the Lacedæmonians had no means of dealing with them as they desired; but about fifty years later Archidamus, the son of Zeuxidamus, king of the Lacedæmonians, made an attempt in time of peace to surprise their city. He received assistance in this project from Thebes, and his chief instrument was Eurymachus, son of Leontiades, the Bœotarch, the gates having been opened at night by Nausiclides and his accomplices, who had been won over by bribes. The Platæans, having discovered that the Thebans had got into their city in the night and had surprised it in time of peace, ran to arms and formed in order of battle to meet the enemy. As soon as it was daylight, they saw that the Thebans were not many in number, for only an advanced troop had entered; a large quantity of rain had fallen in the night and prevented the arrival of the main body; the river Asopus had overflowed its banks, and it was not easy to cross, especially in the night-time—when the Platæans therefore saw the Thebans in their city and knew that the whole body had not arrived, they fall upon them, vanquish them in battle, and put them to the rout before the arrival of reinforcements: and they despatch a courier to you, to inform you of the occurrence and of the victory which they had gained, and to require your assistance in case the Thebans should ravage their territory. The Athenians, when they heard what had taken place, hastened with succour to Platæa, and the Thebans, when they saw that the Athenians had sent succour to the Platæans, returned home. When the Thebans had thus failed in their enterprise, and the Platæans had put to death those whom they had taken in battle, the Lacedæmonians were in great wrath, and immediately without any pretext marched against Platæa, having ordered all the Peloponnesians to send two-thirds of their army from their respective cities, and having given notice to

all the rest of the Bœotians and the Locrians and Phocians and Malians and Œtæans and Ænians to march with all their forces. And they invested the city of the Platæans with a large blockading force, and proposed to them that they should deliver up the city, keeping their territory and enjoying their possessions, and renounce the Athenian alliance. The Platæans refused these terms, returning for answer that that they would do nothing without the Athenians; whereupon the Peloponnesians drew round them a double wall of circumvallation, and blockaded them for two years, making repeated and various attempts to take the city by storm. When the Platæans were thoroughly exhausted, and reduced to extremity and desperation, they drew lots and divided themselves into two parts; one division remained to endure the siege; the others waited for a night of rain and violent wind, and then, making their exit from the city, passed the intrenchments undiscovered by the enemy, massacred the sentinels, and reached Athens in safety, wholly unexpected, and in a most miserable plight. Of those who stayed behind, after the city had been taken by storm, all who had reached to the age of manhood were put to the sword; the women and children were reduced to slavery, except those who had gone secretly to Athens when they learned the advance of the Lacedæmonians.

Now see in what way you imparted the freedom of your city to the men who had thus signally displayed their good-will to the Athenian people, and who had sacrificed all their possessions, as well as their wives and their children. The law is apparent to all from your decrees, and you will know from them that I am speaking the truth. Please to take this decree, and read it to the jury.

THE DECREE CONCERNING THE PLATÆANS.

"On the motion of Hippocrates, it is decreed that the Platæans shall be Athenian citizens from this day, and possessed of the franchise in like manner as the other Athenians, and that they shall enjoy all rights which the Athenians enjoy, both civil and sacred, except any priesthood or devotional office which belongs to a particular family, and except that they shall not be eligible to the places of the nine archons, but their descendants shall be eligible to these.

And the Platæans shall be distributed among the townships and the tribes, and, after they have been so distributed, it shall no longer be lawful for any Platæan to become an Athenian citizen, without having obtained a grant from the people of Athens."

You see, men of Athens, how justly and wisely the orator framed the decree on behalf of the Athenian people, requiring that the Platæans, upon receiving the grant of citizenship, should first undergo their several probations in the court, to ascertain whether each of them was a Platæan and one of the friends of the state, for fear that other persons might get the freedom of the city under that pretence; and secondly, that the names of those who had passed their probation should be inscribed on a stone pillar, to be set up in the Acropolis by the temple of the Goddess, in order that the grant might be preserved to their descendants, and every one might have the means of proving to which of the original receivers he was a relative. And he does not allow any one to become an Athenian at a later period, who is not created such at the time and approved in the court of justice, for fear that others should procure for themselves the freedom of the city by pretending to be Platæans. And besides this, he defined at once in his decree the rule to be observed in relation to them, both in a political and religious point of view, declaring that none of them should be drawn for the offices of the nine archons or for any priesthood, but that their descendants should be eligible to such offices, if their mothers were of civic birth and married according to law.

It would be monstrous, when in the case of your neighbours, who of all the Greeks have been confessedly your greatest benefactors, you so carefully and so strictly defined the conditions on which they should receive the grant of citizenship, that you should allow a woman, who has openly prostituted herself in all parts of Greece, thus shamefully and recklessly to insult the state and offend the gods with impunity, a woman who is neither of civic parentage nor naturalised by a vote of the people. Where has she not prostituted her person for hire? Where has she not gone for her daily wages? Has she not carried on her infamous traffic in the whole of Peloponnesus? Has she not been in Thessaly and Magnesia with Simus the Larissæan and Eury-

damas, the son of Midias; in Chios and most parts of Ionia, in the train of Sotades the Cretan, when Nicarete, to whom she belonged, let her out for hire? What do you think a woman does, who is subject to strange men and goes about with any one who pays her? Will she not lend herself to all the pleasures of those that hire her? And will you declare by your verdict that a woman like this, who to the certain knowledge of all men has travelled over the world [1] belongs to the Athenian community? And what glorious act will you say you have done, when people ask you? Rather, what dishonour, what impiety must you not confess yourselves to be chargeable with? Before this woman was indicted and brought to trial, and before you all heard what she was and what acts of impiety she had committed, the offences would have been hers, and the neglect the state's; and some of you would not have known anything about the matter, while those who had heard of it would have expressed indignation, but would have had no means of punishing her, there being no one to bring her to trial or ask for your verdict upon her. But now that you all know the circumstances, and have her in your power and are competent to punish her, the sin against the gods is yours, if you decline to punish her. And what will each of you say, when he goes home to his wife or his daughter or his mother, after having acquitted this woman, when the question is asked, where you were—and you say, "we were sitting in judgment?"—"On whom?" it will be asked. "On Neæra,"—you will say of course—"because she, being an alien, has been living as wife with a citizen, contrary to law, and because she gave her daughter, who was unchaste, in marriage to Theogenes the king-archon, and this daughter performed the mystic sacrifices on behalf of the state and was given as wife to Bacchus"—this and all the rest you will report, mentioning the particulars of the accusation, and how carefully and accurately they were stated in court. Your hearers will ask—"well; what did you do?"—and you will say, "we acquitted her." The most virtuous of the ladies will then be angry with you, for allowing this woman to

[1] Pabst and Auger take εἰργασμένην in a different sense. Pabst—von der es allbekannt ist, dass sie wegen ihres Gewerbes den ganzen Erdkreis durchzogen hat." Auger—"reconnue publiquement et généralement pour s'être prostituée par toute la terre."

enjoy civil and religious privileges in like manner with themselves: those who are inclined to folly you encourage to do what they please, under the idea that, however they may indulge their passions, you and the laws have given them impunity. For, if you are tolerant of what they they do, and show your indifference to it, it will be thought that you agree with their principles. It would have been far better therefore, that this trial should never have taken place, than that, having taken place, you should pronounce a verdict of acquittal. For, in that case, prostitutes will be at perfect liberty to live with what men they please, and to affiliate their children upon anybody; and your laws will become invalid, and the principles of loose women will prevail, and have no restraint. Have regard then to the women of your own community, that the daughters of humble citizens may not be left unmarried for want of a dowry. Now, though a girl be poor, the law helps to find her a suitable dowry, if nature has but given her a tolerable person; but if you, by the acquittal of this defendant, annul and trample upon the law, the traffic of prostitution will extend to the daughters of citizens, who are unable to marry for lack of a dowry, and the dignity of free-born women will pass to courtesans, when a license is given them to have sexual intercourse with whom they please, and to partake in all the sacrifices and religious ceremonies and honours of the state.

Consider then, I pray you, that each of you is about to give your verdict, either for a wife, or for a daughter, or for a mother, or for the laws and the constitution and the religion of the country, in order that respectable women may not be put on the same footing with this prostitute—that women who have been carefully and modestly brought up by their relations, and given in marriage according to the laws, may not be ranked in the same class with one of loose and disgusting manners, who has repeatedly and day after day granted her favours to any number of men that solicited them. Don't look upon me, the speaker, as Apollodorus, and these who will support and plead for the defendant as Athenians; but look upon it that the laws and Neæra are contending with each other upon the facts which are in evidence. While you are upon the case for the prosecution, hear the laws themselves, through which the constitution is maintained, and

according to which you are sworn to give judgment; hear what they prescribe, and how they have been disobeyed by my opponents. When you are upon the defence, bear in mind the charge which the laws prefer and the proof offered by the prosecutor; look at the personal appearance of this woman, and consider this only, whether she, being Neæra, has been guilty of the acts with which she is charged.

It would not be amiss, men of Athens, if you called to mind what happened to Archias, the hierophant. He was convicted in court of impiety for offering a sacrifice contrary to ancient usage, and you passed sentence upon him. It was charged against him among other things, that at the harvest-feast, when Sinope the courtesan brought a victim to the altar in the court at Eleusis, he sacrificed it for her, it not being lawful to sacrifice victims on that day, and the sacrifice not belonging to himself, but to the priestess. Dreadful indeed would it be, that a man of the race of the Eumolpidæ, a descendant of an honourable family, and a citizen of Athens, should suffer punishment for having transgressed an established usage—notwithstanding that his friends and relations interceded for him—notwithstanding the public charges which had been defrayed by him and his ancestors—notwithstanding his being hierophant—you gave him not the benefit of all this, but punished him for the crime of which he had been found guilty—and shall this Neæra, who has committed offences against this same god and against the laws, she as well as her daughter, be suffered by you to escape with impunity?

I wonder for my part, what they will urge to you in their defence. Will they say that Neæra the defendant is a woman of civic birth, and lives with Stephanus according to the laws? They cannot say this; for it is in evidence, that she is a loose woman, and has been the slave of Nicarete. Or will they pretend, that she is not his wife, but that he keeps her as a concubine? This cannot be; for her sons, who have been introduced by Stephanus to his clansmen, and her daughter, who has been given in marriage to an Athenian citizen, manifestly prove that Stephanus has lived with her as his wife. I take it therefore, that neither Stephanus himself nor any one on his behalf will attempt to show, that the charge and the evidence are not true and that Neæra the defendant

is a woman of civic birth: but I am told, that he means to set up a defence of this sort, that he keeps her not as a wife but as a mistress, and that his children are not by her, but by another woman, an Athenian of his own kindred, whom he says he formerly married. To meet this impudent assertion, this defence which he has concocted, and which he is prepared to support by false witnesses, I tendered him a fair and carefully drawn challenge, by means of which you might have ascertained the whole truth: I proposed that he should deliver up the female servants, Thratta and Coccalina, who continued with Neæra at the time when she came to Stephanus from Megara, and those whom she afterwards purchased when she lived with him, Xenis and Drosis; who know perfectly well, that Proxenus who died, and Ariston who is yet living, and Antidorides who runs in the footraces, and Phano, formerly called Strybele, who married the king-archon, were all children of Neæra. And, if it should appear from the torture, that Stephanus the defendant had married an Athenian wife, and that he had these children not by Neæra, but by another woman, a born Athenian, I offered to withdraw from the case, and not bring this indictment into court. For this is matrimony, when a man begets children, and introduces the sons to the members of his clan and township, and affiances the daughters to their husbands as his own. Mistresses we keep for pleasure, concubines for daily attendance upon our person, wives to bear us legitimate children and be our faithful housekeepers. Therefore, if Stephanus formerly married an Athenian wife, and these children were by her and not by Neæra, he might have shown it by the most certain proof, delivering up these female slaves for examination.

To prove that I challenged him, you shall hear the deposition and the challenge read. Read the deposition, and then the challenge.

THE DEPOSITION.

"Hippocrates, son of Hippocrates, of Probalinthus, Demosthenes, son of Demosthenes, of Pæania, Diophanes, son of Diophanes, of Alopece, Diomenes, son of Archelaus, of Cydathenæum, Dinias, son of Phormidas, of Cydantidæ, Lysimachus, son of Lysippus, of Ægilia, depose, that they

were present in the market-place, when Apollodorus challenged Stephanus, requiring him to deliver up the female servants to be questioned upon the subject of the charges which Apollodorus was preferring against Stephanus concerning Neæra; and that Stephanus declined to deliver up the female servants; and that the challenge was that which Apollodorus produces."

Now read the challenge itself, which I tendered to the defendant Stephanus.

THE CHALLENGE.

"Apollodorus tendered this challenge to Stephanus upon the subject of the indictment which he has preferred, charging that Neæra, being a foreign woman, lives with him as his wife. Apollodorus is ready to receive for examination by torture the female servants of Neæra, whom she brought from Megara to Athens, namely, Thratta and Coccalina, and those whom she afterwards purchased when living with Stephanus, namely, Xenis and Drosis, who know for certain about the children of Neæra, that they are by Stephanus, namely, Proxenus, who died, and Ariston, who is now living, and Antidorides, who runs in the footraces, and Phano. And should they confess that these children are by Stephanus and Neæra, I proposed that Neæra should be sold for a slave according to the laws, and that her children should be declared to be aliens: but if, instead of confessing them to be her children, they declared them to be the children of another woman, an Athenian born, I offered to give up the cause against Neæra, and to pay for whatever damage the females might sustain by the torture."

Upon my giving this challenge to Stephanus, men of the jury, he declined to accept it. Does it not then appear to you, men of the jury, to have been decided by Stephanus himself, that Neæra is liable to the indictment which I have brought against her, and that I have told you the truth, and produced true testimony, and that whatever Stephanus urges will be false, and that the rottenness of his case will be apparent from his own conduct, when he has been afraid to give up to the question the female slaves whom I demanded?

Thus, men of the jury, have I, as the avenger both of myself and of the gods, whom they have offended, brought these defendants to trial and delivered them up to be dealt

with by your verdict. It is for you now to perform your duty. Be assured that not a single one of your votes will be hidden from the gods, whom these persons have sinned against; under this assurance pronounce the verdict which justice requires, and avenge the wrongs done to the gods as well as your own. If you adopt this course, you will be thought by all men to have given a fair and righteous decision upon this indictment, which I have preferred against Neæra, charging that she, an alien, has lived as wife with a citizen.

THE FUNERAL ORATION.

THE ARGUMENT.

THAT Demosthenes, after the unfortunate battle of Chæronea, was chosen by the Athenians to deliver the funeral oration in honour of the fallen, the reader has already seen (Or. de Cor. vol. ii. page 103). Whether the speech now before us is the one which he really delivered, is a matter which has been doubted from an early period. Harpocration quotes it with the remark, "if it is genuine." Dionysius of Halicarnassus declares it to be unworthy of Demosthenes, remarkable only for fine-sounding words and poverty of thought. The like judgment is pronounced by Libanius, Photius, and Suidas; and, among modern critics, by Taylor, Bekker, Valkenaer, Wolf, Heyne, Schäfer, Westermann, and Ranke. On the other hand, it is defended by Krüger, Becker, and Pabst. The last-mentioned critic observes, that although this speech is far inferior to the celebrated funeral oration of Pericles in Thucydides, and to that in the Menexenus of Plato, yet it is superior to the artificial composition of Lysias on the same subject. He points out also a similarity between certain passages in this oration and that on the Crown, as tending to prove the genuineness of this. The remarks of Becker, in his "Demosthenes als Staatsmann und Redner," are instructive as to the character and object of these funeral speeches, and therefore I subjoin a translation of them:

"A beautiful custom in Greece, by which a grateful country strove to honour her sons who fell in battle in her defence, was the solemn interment of their ashes in a public tomb. The state considered this public distinction of men, who had sacrificed their lives for the maintenance of her free constitution, as a sacred duty of justice and gratitude: she therefore made provision, that the memory of such citizens should be worthily celebrated by orations, and perpetuated by monuments.

"By whomsoever this custom may have been introduced into Athens—whether by Solon, as is very probable, or shortly after the Persian

wars, as some persons contend—it must ever be regarded as unquestionably the most praiseworthy which the wisest people of the ancient world admitted among their institutions. This tribute, which was paid to the beloved dead by a public acknowledgment of their services; this kind sharing by the whole commonwealth of the losses which individual families had sustained; this gentle consolation, which the orator, nominated by the state, and also in the name and on behalf of the state, administered to the fathers and mothers, wives and children, of those who had perished in battle; lastly, this general lifting up of the soul above sorrow, upon the unfortunate issue of a battle—who does not see, that the whole of such an arrangement corresponded with the noble spirit of the people, who—especially in the best times of their history—willingly offered up their lives upon the field for their country, for freedom, and for renown? They had from their youth upwards seen and heard, that an ever-glorious memory was from generation to generation secured to the fallen by means of a grateful commonwealth. When there is such an assurance—as an eminent man (Schlegel) has truly said—we cannot wonder, that not only a great number of heroic individuals should devote themselves to death for the commonwealth, but also that whole crowds of inspired citizens, not in drunken fury, but in sober reflection, should seek the field from which they know that they shall never return; we cannot wonder that the Athenians especially should know so well how to die for public freedom.

"For an accurate description of these last honours to the dead, we are indebted to Thucydides, who, as an introduction to the splendid speech of Pericles, gives the following account of the ceremony (II. 34):

"'The bones of the dead are laid out three days before, a tent being erected, and each man brings to his own relative what funeral offering he pleases. On the day of the funeral coffins of cypress-wood are carried in wagons, one for each tribe; in which are laid the bones of every man, according to the tribe to which he belonged; and one empty bier is carried, spread with a cloth, in honour of the missing, whose bodies could not be found for interment. Any one that pleases, whether citizen or stranger, joins in the procession; and their female relatives attend at the burial to make lamentation. The urns are laid in the public sepulchre, which is in the fairest suburb of the city, [the Ceramicus,] in which they always bury those who have fallen in war, (except those who fell at Marathon; to whom, as being distinguished for a valour pre-eminent above all, they gave a burial on the spot.) After they have laid them in the ground, a man chosen by the state—one of high repute for his ability, and also of eminence by his position—speaks over them an appropriate panegyric; after which they all retire. In this way they bury them; and through the whole of the war, upon every occasion, the established custom was observed. Upon the first of the public funerals Pericles, the son of Xanthippus, was chosen to speak. At the appointed time, advancing from the sepulchre to a platform, which had been raised to the same height, that he might be heard as far as possible over the crowd, he spoke, &c.'

"Only a few of these funeral orations have been handed down to us from the ancients. Some of them were actually spoken at the ceremony; others were only sketched out by the writers whose names they bear, without having been really delivered on such an occasion.

"To the latter class belongs avowedly the noble oration of Plato in the Menexenus, which the philosopher puts in the mouth of Socrates, with the assertion that it was composed by Aspasia. It seems that Plato, dissatisfied with the ordinary form of these public funeral orations, wished to show by a specimen, how the orators might on so important an occasion express themselves in a more lofty way than they were accustomed to do.

"In the same class, it seems, we must place the oration of Pericles in Thucydides. For, though the historian ascribes it to that statesman, it is most probably a work of his own design and composition, like the rest of his speeches ascribed to other men.

"From the two last-mentioned discourses we get less information as to the general object and character of these funeral orations, than from those of Lysias, Demosthenes, and Hyperides.

"The Epitaphius of Lysias was composed Olymp. 96, in honour of the Athenians who had fallen in the Corinthian war. The argument and the style are like those of the Demosthenic; but the style is very unlike that of Lysias in his judicial speeches.

"Of the mourning speech of Hyperides we possess only a fragment, which, on account of its great merit, makes us doubly regret the loss of the whole. (Stobæus, Serm. 121, p. 525.) It appears to be the peroration of the funeral speech in honour of Leosthenes.

"Of all the orators who were called upon to speak the praises of those fallen in battle, none had so honourable and at the same time so arduous a task imposed on him, as Demosthenes had after the battle of Chæronea. He himself observes at a later period, how unmistakeably the people had shown their confidence in him, by choosing him for this office rather than an orator of the opposite party; and that their choice was a tacit approbation of the measures which he had advised, notwithstanding their calamitous result.

"Could we place ourselves in the position of the speaker, it would appear that this duty was one of the hardest which could be imposed on him. The peace with Philip had only just been concluded, and under the most favourable conditions. The king himself had given up the Athenian slain without ransom, and had thus facilitated the performance of the ceremony. The orator was therefore obliged, in mentioning his adversary, to observe a moderation, which was quite foreign to his character and to his long habit of speaking as the decided enemy of the Macedonians. Further, the position of the state was helpless. and the man, who was to console others, was himself stunned by the blows of a most cruel destiny. He was also to cheer and raise the spirits of those fellow-citizens, who by his advice had been driven to the field, and there had lost their relations and friends.

"These difficulties however were in a great measure diminished by the circumstance, that both the form and subject of a funeral oration had been for a long time past defined and limited by usage. It was not

the pleasing style of the discourse that was to give comfort and tranquillity to the hearers: it was from the prescribed technical form of the discourse that this result was to be expected. We must pursue this idea and develop it further, before we proceed to pass judgment on the oration.

"A peculiar class of public speeches for solemn occasions, (to which class the Epitaphian belonged,) was the epideictic, which had for their subject the praise or censure of persons or things. (See Aristotle, Rhet. i. 9.) Both the argument and the character of them were defined by rules; and therefore the talent of the speaker had less free scope for exertion than in other kinds of discourses. Such was more particularly the case in funeral orations, for which a definite form was prescribed on the part of the state. This subject was always the same—praise of the dead; mourning of their country for their loss; consolation for the nearest relatives. It was the especial duty of the orators on this occasion to celebrate the ancestors and their deeds, and for that purpose to go back to a mythical period, and with the memory of olden times to connect the recent glorious acts of their descendants. Just so with the grounds of comfort, which the orators suggested to the mourners; the renown of the departed, which they obtained peculiarly by means of their public burial; their happy lot in the world below; the care which the state would take of their children; and lastly, the calling upon them to submit themselves to their destiny as heroically as the fallen warriors had done; &c. It appears especially from the usual commencement and conclusion of the mourning speeches, that the orator was obliged to conform to prescribed usage. They commence nearly all by declaring, that the duty imposed on them surpasses their strength; and in conclusion they dismiss the assembly with the words—'now go back to your homes, after you have bewailed the dead according to custom.'

"We must not pass over the composition, which was required for these works of art. A deep and earnest feeling of sorrow was to be expressed in a funeral oration. It was not by novelty of thought or by the application of rhetorical art that the minds of the hearers were to be worked on; but rather by a smooth and poetically beautiful language. They required of the orator what more properly belongs to the poet, and it is indeed surprising, that the Athenians did not on such occasions rather employ the genius of their finest poets, than the talents of their favourite orators, who in undertaking such a task found themselves involved in insuperable difficulties, and were unable to exhibit a work of art corresponding to their renown.

"'It is only allowed'—says Schlegel—'to the fine arts, to express on festive occasions the feelings of holiday people; it is not the province of eloquence. For sport must always be free, and not restricted by any serious object; otherwise it is not sport. Now the essential difference between the rhetorical and the poetical art is, that serious business is the main object of the former, beauty only its secondary object. Eloquence should only adorn the serious. If it invades the domain of poetry, and makes beauty its principal object, then inevi-

tably happens what never ought to happen: oratory will sport with truth and justice; and what is more, it will err without reward, and sport without taste; for what is not fitting cannot be beautiful.'

"Nothing could be less agreeable to our serious orator, than to sport in this epideictic address with a people, whom at all other times he had raised to his own level by the force of truth. His hearers could only be satisfied by that form of speech which had been sanctioned (as it were) by ancient usage. We are disposed to exact more from such a speech, and to expect more from Demosthenes; and therefore perhaps so many persons have entertained doubts as to the genuineness of this work."

SINCE the state determined to give a public burial to the men who lie in this sepulchre, who have demeaned themselves bravely in the war, and I was appointed to deliver the customary oration over them, I began at once to consider how they might obtain a becoming panegyric; and the result of my consideration and inquiry was, that to make a speech worthy of the departed would be a matter of impossibility. For since they disregarded that desire of life which is implanted in all men, and chose rather to die with honour than to live to see Greece in misfortune, is it not certain that they have left behind them a renown beyond the power of speech to celebrate? It may however be possible for me to discourse in a manner similar to those who have preceded me in the same task. That the state takes a serious interest in her sons who fall in battle, may be seen from many circumstances, but especially from this law, according to which she chooses a person to speak at the public funerals; for, knowing that with virtuous men the possession of money and the enjoyment of worldly pleasure is despised, and that all their ambition is for praise and renown, the state considered that they ought to be honoured with such speeches as might best accomplish for them the object of their desires, so that the glory which they won in their lifetime might be awarded to them after their death. If I observed that courage was the only quality of virtue which belonged to them, I should have praised this and passed over everything else. But since it has been their fortune to have had an honourable birth, and to have been trained up to wisdom, and to have striven in their lives for none but laudable objects, all which naturally led to their being virtuous men, I should be ashamed if I

omitted any of these grounds of praise. I will begin with the origin of their race.

The noble parentage of these men has been universally acknowledged from the most distant period. For every one of them is able to refer his origin not only to a father and more remote ancestors, naming them man by man, but generally to the whole of his country, of which it is acknowledged they are indigenous sons. For they alone of mankind have inhabited the land of which they were born, and have bequeathed it to their descendants; so that it may justly be assumed, that, while those who have migrated to foreign countries and been called citizens of them, are like adopted children, these (the Athenians) are the legitimate-born citizens of their country. And, as it seems to me, the circumstance that the fruits of the earth by which men live appeared first among us, besides having been the greatest benefaction to mankind, proves beyond dispute, that the land is the Mother of our ancestors. For all things which bring forth, at the same time produce nourishment for their offspring by the law of nature, and so this land hath done.

With respect to birth, then, such are the traditions of these men's ancestors, handed down from time immemorial. With respect to courage and other virtuous qualities, I am afraid to say all that I could, for fear that my speech should reach to an unseasonable length; but I will endeavour to present a short summary of those points, which you that know them already may be advantageously reminded of, you that are unacquainted with them will do well to hear, and which, while they are glorious topics to enlarge upon, will not give annoyance by their length. For the ancestors of the present generation, fathers and those of more remote degree, bearing the ancestral titles by which the members of their family distinguish them, have never injured any mortal, either Greek or barbarian. It was their fortune (among other things) to be good men and true, and perfect lovers of justice; and in defending themselves against their enemies they achieved many gallant exploits. They vanquished the invading army of Amazons, and drove them back even beyond the Phasis: they expelled the army of Eumolpus and many other foes not only from their own country, but from that of the other Greeks:—armies which those before us dwelling

westward could none of them either check or withstand. And of the children of Hercules, who himself delivered other men, our ancestors were called the deliverers, when they came as suppliants to this land, flying from the persecution of Eurystheus.

In addition to all these and many other glorious actions, they would not permit an insult to be offered to the dead, when Creon forbade the burial of the seven chiefs who attacked Thebes. I have passed over most of the deeds which are reckoned as mythical, and mentioned these, every one of which contains such abundant materials of panegyric, that verse-writers and lyrical poets and numerous writers of history have made the deeds of such men the arguments of their literary compositions. I shall proceed now to speak of those actions, which in point of merit are not inferior to any, but, because they are nearer to our own time, have not yet assumed a mythical character, nor been ranked in the class of heroical achievements. Our ancestors, without any aid, twice defeated by sea and land an invading force from the whole of Asia, and, exposing themselves to the brunt of the peril, wrought the deliverance of all the Greeks. Others have already celebrated what I am about to speak of; yet those men ought not now to be deprived of well-earned and glorious praises. For they may justly be deemed superior to the soldiers of the Trojan war, inasmuch as the latter, being the flower of Hellenic warriors, were ten years besieging a single city of Asia, and took it even then with difficulty, whereas those Athenians not only defended themselves against an invading army gathered from the whole continent, which had reduced all other countries to subjection, but took vengeance for the wrongs which they had inflicted on others. Further, to prevent selfish encroachments among the Greeks themselves, they have encountered every danger which has arisen, and attached themselves invariably to the side of justice, until the progress of time has brought us to the present age of the world.

Let no one imagine, that I have briefly enumerated these actions because I was at a loss what to say upon each of them. Had I been of all mankind the most barren of invention, the virtue of those men itself furnishes so many obvious subjects of encomium, that it is an easy thing to go through

them. But I prefer to mention their noble birth and the most important deeds of our ancestors, and then as quickly as possible to connect the subject with the acts of these men, that, as they were linked together by the natural tie of relationship, so I may unite their praises, considering that it will be pleasing even to them, and indeed most pleasing to both, if they share in each other's virtue not only by nature but by praise.

I must however interrupt the thread of my discourse, and, before I explain the performances of these men, invite the goodwill of those who are no relations, yet have attended at the burial. Had I been appointed to solemnize this funeral by any expensive outlay, by the display of a chariot-race or a gymnastic contest, the more zealous I had been, and the more unsparing of cost in preparing the exhibition, the better I should have been thought to have performed my duty. But having been chosen to make a speech in praise of these men, I fear, unless I win the sympathy of my hearers, my zeal may cause me to do the reverse of what I ought. For riches, swiftness, strength, and the like, have intrinsic advantages for their possessors, and achieve success by means of the parties themselves, whether other people like it or not: but persuasion requires the goodwill of the hearers; aided by that, with but a moderate share of eloquence, it brings fame and wins favour; without such aid, however wonderful the power of the orator, it only disgusts the hearers.

Many as are the topics of panegyric which the deeds of these men suggest, when I am entering upon them, I know not which to begin with; they all crowd upon me at the same moment, and render the choice exceedingly difficult. However, I will try to observe the same order in my speech, which occurred in the history of their lives. They from the beginning were distinguished in all branches of education, practising what was suitable to every period of age, and pleasing all whom they were bound to please, their parents, their relations, their friends. Therefore the memory of their friends and relations tracing now (as it were) their footsteps every hour turns to them regretfully, finding numerous reminiscences of their excellence. When they arrived at man's estate, they made their characters known not only to their fellow-citizens, but to all the world. For of all virtue the

beginning is understanding, and the end is courage; by the one we learn our duty, by the other we maintain it;[1] in both of which qualities these men were eminently distinguished. For if there was growing up a common danger to all the Greeks, these men first foresaw it, and frequently exhorted all to take measures for safety; which is a proof of sound wisdom. The ignorance of the Greeks being mingled with cowardice, when it was possible to prevent and avert the mischief, partly did not foresee it, partly pretended not to: however, when they did hearken to counsel and were willing to do what was right, our countrymen did not bear malice, but putting themselves at their head, and giving all they had with alacrity, their bodies, their property, and their allies, marched to the decisive contest and spared not even their lives. It is a matter of necessity that, when a battle takes place, one side must be vanquished and the other be victorious. Yet I would not hesitate to say that, in my opinion, those on either side who fall in their ranks share not in the defeat, but are both equally conquerors. For among the living victory is adjudged to be theirs on whom the deity bestows it; but every man who remains at his post has done all that he was bound to do to secure the result. If he undergoes his destiny as every mortal must, he has suffered a casualty of fortune, but his soul has not been overcome by the adversary.

I consider that the enemy's not having invaded our territory has been owing not merely to their own neglect, but to the valour of these men; for those who joined battle on that occasion, having man for man had experience of their valour, were reluctant to try the chance of a second battle with their kinsmen, thinking that they should meet adversaries of the same mettle, and it might not be easy to get the same good fortune. Nothing more strongly proves the truth of what I say than the circumstances of the late peace: for it is impossible to suggest any more true or honourable ground for making peace than this, that the leader of the enemy, admiring the valour of the fallen, rather chose to become the friend of their kindred than to risk his all by renewing the contest. I believe, if the soldiers who took the field were asked, whether they attributed their success to their own

[1] Cicero pro Sexto—"Hoc sentire prudentiæ est, facere fortitudinis."

valour, or to an unexpected and overwhelming good fortune joined to the skill and boldness of their general, there is not a man so shameless or audacious, as to claim the merit of the achievement. Where a ruling divinity has ordered the result according to his pleasure, all other parties, being but men, must of necessity be absolved from the charge of cowardice; and where the commander of the enemy has been more than a match for those opposed to him, the result is not chargeable to the masses either on one side or the other. If there were any mortal who could justly be blamed for the issue of this battle, it would be the Theban commanders, and not our troops or theirs, on whom the blame should be cast: for they, having received an army invincible in spirit, reckless in courage, and ambitious of glory, made no use of these advantages. And upon other points there may be a difference of opinion; but this is equally apparent to all mankind, that the maintenance of Panhellenic liberty depended on the lives of these men; so that, when destiny had carried them off, there was no one left to resist the aggressors. I trust my words may give no offence; but it seems to me that the virtue of these men may be truly said to have been the life of Greece; for no sooner was the breath out of their bodies, than the glory of Greece had departed. And the following may be thought an extravagant assertion, yet I must give utterance to it. As, if light were removed from the world, nothing would be left to human life but misery and discomfort, so by the death of these men all the previous renown of the Greeks is sunk in darkness and disgrace.[1]

Many are the causes which naturally made them what they were; but the worth of their character is mainly attributable to the constitution of their country. For oligarchies create feelings of terror in the citizens, but do not inspire a feeling of shame; and therefore, when the struggle of war commences, every one strives to save himself as well as he can, knowing that, if he can conciliate those in power either by gifts or by means of any other friendly relation, whatever baseness he be guilty of, very little infamy will attach to him. Democracies, besides much else that is equitable and good,

[1] Compare Cicero in Lælio—"Solem e mundo tollere videntur, qui amicitiam e vitâ tollunt, quâ nihil a Diis immortalibus melius habemus, nihil jucundius."

and that a sensible man should hold fast to, possess this peculiarity, that liberty of speech, which is dependent upon truth, cannot be deterred from declaring the truth. For neither is it possible for those who have committed any disgraceful action to shut the mouths of all,[1] nor is the person who proclaims their reproach the only one who gives them pain; for those who would not themselves pronounce any censure are glad to hear it when another man speaks out. For fear of this, and for shame of the reproach that would follow a different course, they all, as you might expect, brave the peril of encountering the enemy, and prefer an honourable death to a life of infamy.

I have mentioned the common motives which made all these men willing to die with honour—their birth, their education, their habitual practice of virtue, the fundamental principles of the government under which they lived. I will proceed to mention those incitements to valour which are peculiar to their respective tribes. All those of the Erechtheian tribe knew that their hero Erechtheus, in order to save his country, sacrificed his own daughters, whom they call Hyacinthides, and gave them up to death before his eyes. They thought therefore it would be shameful, when one of immortal parentage had done all that lay in his power to deliver his country, that they themselves should set more value on their mortal bodies than upon eternal renown. Those of the Ægeian tribe were not ignorant that Theseus, the son of Ægeus, first established constitutional equality in Athens; and therefore they deemed it shameful to be untrue to his principles, and chose rather to die than suffer them to be overthrown in the face of all the Greeks and meanly save their lives. The Pandionian tribesmen had received the tradition of Procne and Philomela, the daughters of Pandion, how they punished Tereus for the outrage which he had committed upon them. They therefore thought that life would be intolerable to them, if, being the kinsmen of those heroines, they did not show a spirit like them, to resent the insults which they saw offered to Greece. The Leontidæ had heard a legend of the daughters of Leon, how they gave themselves to their fellow-citizens as a sacrifice for the country, and when those women had such a manly spirit,

[1] Pabst, "beschwichtigen." Reiske, "satisfacere."

they held it would not be lawful for themselves to display less of manhood than they did. The Acamantidæ remembered the verses in which Homer declares that Acamas sailed for Troy on account of his mother Æthra. He thus encountered every danger in order to preserve his mother: how then could they shrink from encountering every danger in order to preserve the whole body of their parents left at home? It did not escape the Œneidæ, that Semele was the daughter of Cadmus, and she had a son, whom it is not befitting to name upon these obsequies, and he was the father of Œneus, who was the hero-founder of their tribe. As the danger before them was common to both states, they considered that for the welfare of both they ought to struggle to the last. The Cecropidæ knew that their own founder was represented to have been partly a dragon and partly a man in no other sense than this, that in understanding he was like a man, in strength like a dragon; so they held, that it became them to act in accordance with that legend. The Hippothoontidæ bore in mind the marriage of Alope, from which Hippothoon was sprung, and knew him to be their founder: about which I forbear to mention the true particulars, choosing to observe propriety on this occasion. They thought they should be seen to act worthily of such ancestors. It did not escape the Æantidæ, that Ajax, when the prize of valour was denied him, considered his life insupportable. Therefore, when the deity gave victory to another, they thought it was time for them to die in their country's defence, so as to escape degradation. The Antiochidæ did not forget that Antiochus was the son of Hercules; and therefore they deemed it their duty either to live worthily of their antecedents, or to seek a glorious death.

The relations of these men who survive are objects of compassion, for having suffered such a loss, and having been severed from their constant society and affection. The condition of their country also is forlorn, pitiable, and lamentable. They themselves, if we take a just estimate, are happy: for, in the first place, they have exchanged a brief period of life for a long eternity of glory; their children will be brought up with honour by the state, and their parents will be maintained in their old age and be regarded with reverence, and their renown will be a consolation to the mourners: and in

the next place, their bodies will be free from disease, their souls exempt from those troubles which attend the living in times of misfortune, and their last obsequies are now paid to them with all due honour and solemnity. How can we fail to regard them as happy, to whom their whole country gives a public burial, who alone receive the general praise, who are regretted not only by their kindred and fellow-citizens, but by all people bearing the name of Greeks, and whose loss afflicts the greatest part of the habitable world? Well might we say that they sit by the side of the nether gods, holding the same place with the virtuous of a former age in the islands of the blest. Even of those ancients no eye-witness has ever brought such intelligence; but we who live in earth have deemed certain men worthy of earthly honours, and then we divined according to our opinion that they obtain similar honours in the lower world. It is difficult perhaps to alleviate present misfortune by words; yet we should endeavour to turn the mind to sources of consolation; for it is right that men of such characters as yourselves, and whose ancestors were of equal repute, should be seen to bear calamities with greater fortitude than others, and to be the same in every kind of fortune. Such conduct will be most dutiful and respectful to the dead, and at the same time reflect the greatest honour upon the survivors and the whole commonwealth. It is a grievous thing for a father and a mother to be bereaved of their children, and to have lost the dearest supporters of their age; but it is a splendid thing to see them rewarded with eternal honours and with a public memorial of their virtue, and deemed worthy of sacrifices and perpetual games. It is an afflicting thing for children to be left fatherless orphans; but it is a glorious thing to be the inheritors of a father's renown; and, while the affliction we shall find attributable to the deity, to whom all mortals must bow in submission, the honour and the glory are due to their resolution, who chose bravely to die.

With respect to myself—let me say—my object has been not to speak many words, but to speak the truth. You, my friends, finish your lamentations, perform the legal and customary rites, and then go to your homes.

THE EROTIC ORATION.

OR,

THE PANEGYRIC UPON EPICRATES.

THE ARGUMENT.

The subject as well as the style of this oration renders it improbable that Demosthenes was the author, and all critics concur in thinking it spurious. It bears the stamp of a rhetorical exercise or lecture. A teacher addresses his pupil, an imaginary youth, to whom he professes an attachment; pronounces a panegyric upon his personal beauty and accomplishments, exhorts him to attend to the due exercise both of his body and his mind, and to improve himself and exalt his character by the study of philosophy and the practice of virtue. Pabst, in his introductory preface, observes—"Der Aufsatz ist also insofern interessant, als er der verrufenen Männerliebe der Griechen eine günstige Seite abzugewinnen sucht."

Come then, as you are willing to hear my address, I will read and deliver it to you. In the first place, you ought to understand its object. The composer of the address intends to praise Epicrates, whom of all the honourable youths in the city he considered to be the most pleasing, and to surpass his contemporaries more in understanding than in beauty. Seeing, (to speak briefly,) that most erotic compositions bring disgrace rather than honour to those who are the subjects of them, he has taken precautions to avoid this mischief, and has written that which he is really convinced of in his mind, that a true lover will neither do nor desire anything that is base. What you will find the most erotic part of my lecture relates to this matter, the rest of it is devoted either to praising the youth, or to counselling him upon his education and choice of life. All this is written in the way in which you would put it down in a note-book. For orations intended only for oral delivery ought to be written in a simple style, like what you would say on the spur of the moment; but those which are designed for a permanence should be com-

posed with the utmost care and according to rules of art. It is proper that the former should be convincing, the latter epideictic. However, that I may not say anything foreign to the purpose, or myself declare my opinion upon this subject, give me your attention, and you shall now hear the lecture itself; for Epicrates, whom I desired to have for my hearer, is himself at hand.

Seeing that some of those who are beloved and endowed with beauty do not make a proper use of either of these advantages, but, while they pride themselves on their comeliness of person, are averse to all intercourse with their lovers, and are so far from judging of what is best, that, on account of those who spoil the thing, they repulse even those who would associate with them modestly and decorously, I considered that such persons not only act contrary to their own interests, but lead others also into bad habits, and that right-minded people ought not to imitate their despair; for they should bear in mind this especially, that, as things are neither honourable nor disgraceful absolutely, but vary for the most part according to the conduct of the parties concerned, it is unreasonable to form one judgment of both without regard to circumstances; and further, that it is most absurd to admire those who have the most and the staunchest friends, and yet to discountenance lovers, a class whose peculiar characteristic it is to attach themselves not to all but only to the beautiful and the modest. Besides, though perhaps it is not unreasonable, that such should be the feeling of those who have never yet seen an intimacy of this kind turn out well, or who are convinced of their own weakness and know that they could not innocently admit such familiar intercourse; those whose disposition resembles yours, who are not wholly ignorant how many important ends have been accomplished without dishonour by means of love, and who have lived all their lives with the strictest prudence, cannot with reason even suspect that they would do anything disgraceful. Therefore have I been the more encouraged to write this lecture, in the hope to attain two most glorious objects. For, if I describe the good qualities belonging to you, I hope at the same time to show that you are worthy of admiration, and that I am a person of discernment in loving one like you, Again, if I tender you advice of the most pressing importance, I

consider that I shall give you a proof of my goodwill, and find a means of support for our mutual friendship.

I am not blind to the fact, that it is difficult to describe your nature and character in the way that they deserve, and that it is still more hazardous to give advice when the adviser renders himself responsible to the party advised. But I consider that those who justly obtain praises ought to outdo the eloquence of their panegyrists by the surpassing might of truth; and I flatter myself that I shall not fail in my counsel, feeling sure that, while the best counsels in the world will be thrown away upon foolish people who are wholly corrupted by intemperance, those who lead a pure and blameless life will give effect to any advice that has a moderate share of wisdom. With such expectations I enter upon my address; and I think all will agree with me, that it especially becomes youths of this age to maintain beauty in their persons, wisdom in their souls, manliness in both of these, and graciousness in their speech. With these qualities, which are the gift of nature, you have been so bountifully supplied, that you continue to be an object of wonder and admiration; the other qualities which I have mentioned you have by your diligence improved to such a degree, that no person of intelligence can find fault with you. But what ought he to be, who is worthy of the highest encomium? Ought he not to be cherished by the gods, and admired by men partly for his own sake, partly on account of his fortune? On the whole perhaps it will be better to postpone for a while the general discussion of your virtues; whatever I have to say in praise of your various qualities, I will endeavour to set forth with truth.

I will begin with praising that which is first remarked in you by all beholders—your beauty; and in particular, your complexion—that by which the limbs and the whole body are illustrated. I can find no suitable image to compare this to, and I can only ask those who read my oration to look at you with attention, that they may excuse me for not discovering any similitude. For to what mortal thing can one compare that, which creates an immortal longing in the beholders, the sight of which never satiates, which when out of sight dwells in the memory, which to a human form gives a divine dignity, blooming in external hue, and free from all suspicion of

disguise? And in your form one cannot find those blemishes which in many others who possess beauty are discernible. For either by neglect they disfigure all the comeliness of their person, or by some accident they mar its natural advantages. No such fault can be found with yours. For, whoever was the god who provided for your beauty, he was so careful to avoid every such defect, that he gave you a number of admirable qualities without anything to object to. And, whereas of all objects the face is the most striking, and in this the eyes, herein did the deity still more remarkably display his kindness to you. He has not only given you eyes adapted for all the common purposes of vision, but, while the virtue of some people is not made known even by their deeds, he manifested the most beautiful traits of your character by the evidence of your eyes, causing you to appear gentle and kind to those who behold you, noble and dignified to your associates, courageous and prudent to all: which must especially excite our wonder. For while other people are considered pusillanimous in their gentleness, arrogant in their dignity, and are thought to be over-bold on account of their courage, and simple on account of their moderation, fortune finding in you all these repugnancies has assimilated and harmonised them together,[1] as if she were fulfilling a vow, or meant to exhibit a pattern for the rest of mankind, and not to create a mortal being in the usual way.

If it were possible adequately to describe your beauty in words, or if this were the only one of your qualities worthy of praise, I should have thought that not a single feature of your beauty ought to be omitted in my panegyric: but, as it is, I fear my hearers would lose their relish for the rest, if I were too tedious upon this subject. For how can one find words to represent your features, which even works of art by

[1] Hinc sunt illa Ciceronis in Partitionibus de cavendis iis vitiis quæ virtutem videntur imitari: "Nam et prudentiam (inquit) malitia, et temperantiam immanitas in voluptatibus aspernandis et magnitudinem animi superbia in animis extollendis et despicientia in contemnendis honoribus, et liberalitatem effusio, et fortitudinem audacia imitatur, et patientiam duritia immanis, et justitiam acerbitas, et religionem superstitio, et lenitatem mollitia animi, et verecundiam timiditas, et illam disputandi prudentiam concertatio captatioque verborum, et hanc oratoriam vim inanis quædam profluentia loquendi: studiis autem bonis similia videntur ea, quæ sunt in eodem genere nimia." Wolf.

the cleverest sculptors and painters could not excel? And no wonder: for such works are seen without motion, so that it is uncertain how they would look if soul were imparted to them; whereas in you the character of the mind, in everything that you do, gives additional charm to the person. So much for the praise of your beauty, upon which I could enlarge, but forbear to do so.[1]

[1] Much of this high-flown panegyric reminds one of the sonnets of Shakspeare:—

83

I never saw that you did painting need,
And therefore to your fair no painting set;
I found, or thought I found, you did exceed
The barren tender of a poet's debt:
And therefore have I slept in your report,
That you yourself, being extant, well might shew
How far a modern quill doth come too short,
Speaking of worth, what worth in you doth grow.
This silence for my sin you did impute,
Which shall be most my glory, being dumb;
For I impair not beauty, being mute,
When others would give life and bring a tomb.
There lives more life in one of your fair eyes,
Than both your poets can in praise devise.

84

Who is it that says most? which can say more,
Than this rich praise,—that you alone are you?
In whose confine immured is the store
Which should example where your equal grew.
Lean penury within that pen doth dwell,
That to his subject lends not some small glory;
But he that writes of you, if he can tell
That you are you, so dignifies his story,
Let him but copy what in you is writ,
Not making worse what nature made so clear,
And such a counter-part shall fame his wit,
Making his style admired everywhere.
You to your beauteous blessings add a curse,
Being fond on praise which makes your praises worse.

103.

Alack! what poverty my muse brings forth,
That having such a scope to show her pride,
The argument, all bare, is of more worth
Than when it hath my added praise beside.
O, blame me not, if I no more can write!
Look in your glass and there appears a face

Concerning your good behaviour this high panegyric occurs to me, that, although the age of youth is much exposed to calumny, your lot has been to be praised only. For you have not merely determined to avoid error, but to exercise a prudence above your years. And the greatest proof of this is your way of intercourse with people: for, although many have fallen in with you, with all possible kinds of character, and all of them have sought to allure you to their own circles, you have managed these matters so well, that all have been delighted to gain your friendship. Which is a sure sign of persons living an honourable and benevolent life. And yet many have got repute ere now, who have advised that one should not admit the society of casual acquaintance, and many who have followed such advice. They allege that you must either by associating with bad people incur the blame of the world, or by avoiding such censure give offence to your associates. I think that you deserve all the more praise on this account, that, while others regard it as a matter of impossibility to make themselves agreeable to their neighbours, you so far differ from them, as to have overcome every difficulty and impediment, and, without giving the least suspicion to others that you have had an immoral attachment, you have by your obliging disposition kept clear of offending your companions. With your lovers, if I am permitted to speak of them, you seem to me to converse so wisely and discreetly, that, while most youths cannot bear with moderation even those whom they prefer, you are fortunate enough to please all beyond measure; which is the plainest proof of your virtue. For not one of your lovers fails to obtain from you what is just and honourable; and none even hopes to get what would lead to disgrace: such is the liberty which your prudence secures to those who desire the noblest privileges, and such the discouragement which it gives to those who are inclined to licentiousness. Again, while most young

That overgoes my blunt invention quite,
Dulling my lines and doing me disgrace.
Were it not sinful, then, striving to mend,
To mar the subject that before was well?
For to no other pass my verses tend,
Than of your graces and your gifts to tell;
    And more, much more, than in my verse can sit,
    Your own glass shows you when you look in it.

men seek by taciturnity to get a reputation for prudence, you so far surpass them in natural talents, that you have acquired no less glory by your speeches and conversation with your friends than by all the rest of your conduct. Such persuasive power, such winning grace do you display, both in jest and in earnest. For you are simple without being faulty, and clever without malice, and kind without compromise of dignity; in a word, your nature is such, as if you were a child of Love by Virtue.

With respect to courage—for this quality must not be passed over—not that your character does not admit yet of great improvement, or that the future will not afford still further materials for those who desire to praise you, but because praises are most honourable in connexion with this youthful age, in which others may be content to escape error—in you, among many proofs which you have given of courage, one may instance your exercise on the racecourse, of which there have been innumerable witnesses. Perhaps I ought first to mention, how wisely you chose this department of the games. For, that a young man should rightly determine his course of action, is a sure sign both of a virtuous mind and a good understanding; and on both of these accounts the praise of your choice ought not to be passed over. As you knew that both slaves and aliens took part in the other contests, and that citizens alone had the privilege of leaping from the chariot,[1] and only the best of them ventured to undertake it, therefore you applied yourself to this sort of contest. You judged also, that those who exercised themselves in footraces got no improvement in courage or spirit, and those who trained for boxing and the like were corrupted both in body and mind; and therefore you selected that species of contest which was the most honourable and noble, and the best adapted to your own natural taste—one which, in the use of armour and laborious exertion of running, bears a likeness to what happens in war, while in the magnificence and splendour of its display it resembles the power of the gods—and which further affords a most delightful spectacle, and possesses every kind of variety, and is

[1] See the Archæological Dictionary, title *Desultor*, Harpocration, s. v. ἀποβατής, who says that games of this sort were practised only in Attica and Bœotia. Compare Eustathius, ad Il. III. 265, VIII. 492.

rewarded with the highest prizes; for, besides those which are proposed, the very practice and training for such a contest will appear no trivial prize to those who have the least love for virtue. One cannot adduce a stronger proof than the poetry of Homer, who has represented both the Greeks and the barbarians fighting with chariots; and even at this day the like practice is adopted, not by the humblest, but by the greatest of Greek states. So honourable is the exercise which you have chosen, so esteemed among all mankind.

Considering again, that it was of no use to have noble aspirations or a body naturally formed for excellence, unless the mind were duly prepared for ambitious efforts, you first displayed your zeal in gymnastic exercises, and afterwards in action you did not belie it; you exhibited in actual contest not only all your other natural powers, but most especially the courage of your soul. Upon this subject I am almost afraid to enter, lest my language shall fall short of the reality; however I will not pass it by; for it would be disgraceful to shrink from relating what gives such delight to behold. Were I to describe all the contests, my lecture would perhaps run out to an intolerable length; I will mention one only, in which you eminently distinguished yourself; this will illustrate all the others, and it will tax less the patience of my hearers. When the teams had started in the course, and some of them had got the start of you, others were pressing after, you overcame both those before and those behind, in the way that in each case was proper, and got the victory, winning a crown, of which, glorious as was the conquest, the more glorious and surprising part was your own safety. For, when the chariot of your opponents was rushing right opposite you, and all the spectators thought that the might of the horses was irresistible, though you saw that some of them were terrified at a mere shadow of danger,[1] so far from being dismayed or playing the coward, you by your courage overcame the impetus of the team, and, by your swiftness overtook the more fortunate of your opponents. And so far did you change the opinions of men, that while many maintained, and with a show of truth, that the finest sight in a chariot race is a break-down, in your case the opposite feeling pre-

[1] Pabst—"Wiewohl Du sahest, dass Einige der Anwesenden schon, als noch keine Gefahr vorhanden war, sich heftig ängstigten."

vailed, and all the spectators were frightened at the thought of an accident happening to you: such earnest wishes for your success did your character excite.

And there is nothing strange in this. It is an honour to be distinguished in any one thing; but it is a far greater honour to unite in yourself all the distinctions of which any sensible man would be proud. I will make it clearer. We shall find that Æacus and Rhadamanthus on account of their wisdom, Hercules and Castor and Pollux for their courage, Ganymede and Adonis and others like them for their beauty, were beloved by the gods. I wonder not therefore at those who desire your friendship; I wonder at those who feel differently: for, when persons endowed with any one of the aforesaid qualities were deemed worthy to associate with the gods, surely a human being might well pray to be the friend of him who possessed all these qualities. Your father and mother and your other relatives may justly be envied, when you so greatly surpass your contemporaries in virtue; but much more enviable are they, whom you, a youth so highly accomplished, have selected in preference to all others as worthy to be your friends. The former have been connected with you by fortune, the latter have been recommended to you by their own merits; and I scarcely know whether I should call them lovers or only persons of sound judgment: for it seems to me that fortune, despising the base, and wishing to stimulate the minds of the good, originally gave you your beauty of person, not that you might be seduced to pleasure, but that it might serve to procure you virtue and happiness.

Though I have much more to say in your praise, I think it better to stop here, for fear it might be thought that my panegyric went beyond the limits of human nature. For the power of speech, as it seems, is so greatly inferior to that of sight, that, while people never think of disbelieving what they see, they regard the praise thereof as untrue even when it falls short of the reality. I will therefore drop this part of the subject, and proceed now to offer you such counsel, as may enable you to exalt yourself still higher in public estimation. I trust you will give attention to what I am about to say, and not treat it as a matter of indifference, or suppose that I address these words to you for mere show and not for

your advantage. I am anxious about this, in order that you may not err from the truth, and, instead of choosing the best course, choose that which first presents itself and so mar your own prospects. Persons of low and mean natures we rebuke not, even when they act dishonourably, but persons who are distinguished like yourself incur reproach, if they neglect to do that which is most honourable. Again; those who go wrong in other cases commit an error of judgment in one point only; but those who, when they receive practical advice as to their conduct, neglect or despise it, have cause to remember their folly for the whole of their lives.

Nothing of this sort must happen to you. You should consider what in human affairs exercises the greatest influence; what, if it succeeds, will procure the most beneficial results, and, if it fails, will cause the most serious evil in life: it is obvious that we should attend most carefully to that which is calculated to have a preponderating effect one way or the other. We shall find that the human mind governs all things in the world, and philosophy alone is able to give it proper instruction and training. Philosophy therefore you ought to acquire, and not to dread or to shrink from the labour which attends upon it, remembering that by sloth and idleness even the most superficial things are difficult to be mastered, while by resolution and perseverance no advantage in the world is unattainable; and nothing can be so unreasonable, as to be ambitious and exert oneself strenuously to obtain riches and bodily strength and other things of that kind, which are all perishable and subservient in general to the mind, and yet to make no provision for the improvement of the mind itself, which rules everything else, which abides permanently with its possessors, and directs the whole course of life. It is an honour to be admired for the most estimable things by the favour of fortune; but it is a much greater honour to arrive at every possible distinction through your own diligence. Fortune's favour is sometimes enjoyed by the unworthy; diligence belongs to none but those who excel in virtue.

For a discussion of the whole subject of philosophy we shall find fitter opportunities hereafter; but there is nothing to prevent my briefly touching upon it now. This one thing you ought first to be clearly informed of, that every kind of instruction depends upon certain knowledge and exercise, and

especially philosophy; for, the more industrious are those who apply themselves to it, the more complete does it become. Now, since the business of the mind is to employ itself in speeches and deliberations, and since philosophy imparts skill in each of these faculties, why should we hesitate a moment to pursue a study, whereby we may make ourselves masters of both? For then is it likely that our life will arrive at the highest degree of perfection, when, aiming at the most important objects, we are able to acquire what is teachable by art, and everything else by a certain exercise and practice. Surely it cannot be said, that it is not by knowledge that one man excels another in wisdom; for, generally speaking, every nature improves by receiving proper training, and most especially those natures which are originally endowed with greater talents than others. Those not so well endowed may become improved in relation to themselves;[1] the well endowed arrive at excellence over all.

Be assured that an ability derived entirely from practice[2] is insecure, and not of much advantage for the rest of life, whereas the instruction which is got by philosophy is well adapted for everything. Some persons ere now, who have been tried in action, have been admired for the good fortune which has attended them. You should not look up to such persons as these, but attend to your own improvement; for you ought on important occasions, not to act on the spur of the moment, but to understand your duty; not to meditate when the occasion arises for action, but to know how to acquit yourself well in the struggle.[3] Remember that all philosophy confers signal benefits upon those who apply themselves to it, and most especially that science which relates to practical and political questions. Geometry and things of that sort it is disgraceful to be ignorant of, though it is beneath your dignity to be a thorough

[1] *αὑτῶν βελτίοσι γίγνεσθαι.* Literally, "become better than themselves," *i.e.* "obtain some positive improvement." Pabst—"Den Einen nämlich gelingt es, sich nur über sich selbst zu erheben."

[2] Pabst—"Die durch einzelne Fälle und Handlungen erworbene Fertigkeit."

[3] Pabst—"Denn nicht unvorbereitet, sondern wissenschaftlich, sollst Du die wichtigsten Dinge behandeln, noch Dich bei der Ueberlegung durch die Eingebungen des Augenblicks leiten lassen, sondern nach zuverlässigem and tüchtigem Wissen ringen."

proficient in such knowledge: but in the science before mentioned it is an admirable thing to excel, and to be wholly uninstructed would be ridiculous. You may see the truth of this in many ways, and particularly by looking at the distinguished men of former times. First take the example of Pericles, who was thought far to surpass all his contemporaries in wisdom: history will tell you, that he acquired that power by having associated with Anaxagoras of Clazomenæ, and having been his disciple. Next take that of Alcibiades. He, you will find, had far less natural propensity to virtue; he sometimes behaved with arrogance, sometimes with meanness, and sometimes gave himself up to vicious excesses; yet, in consequence of his intercourse with Socrates, he corrected many of his errors, and threw his faults into the shade by the greatness of his exploits. It is wasting time perhaps to talk of old matters, when I have more modern examples at hand. You will find that Timotheus achieved the greatest glory and the highest honours, not by the practices of his younger days, but the deeds which he performed after his intimacy with Isocrates. Archytas again, after he had been placed at the head of affairs in Tarentum, governed that state with such humanity and wisdom, that his renown has reached to all parts of the world. He originally was held in very low estimation, but gained his distinction by having associated with Plato. These results are none of them extraordinary: it would have been far more strange, if, when learning and study were necessary for the achievement of small things, we could accomplish the greatest without any such trouble.

I see no reason to enlarge any further on this topic. I did not enter upon it originally under the idea that you were a total stranger to it, but under the belief that exhortations of this kind, while they admonish the ignorant, stimulate the zeal of the instructed. Do not suppose that in saying all this I am offering myself to be your teacher: that would be presumptuous; I am not ashamed to confess that I yet need to learn a great deal myself; I am but one of the multitude, a competitor in the field of learning, rather than one fit to be a teacher of others. Yet I offer this explanation,[1] not as

[1] Pabst, reading διορθοῦμαι, "Ich Diess zur Berichtigung der Meinungen anführe."

undervaluing the glory of those who profess to be teachers of wisdom, but because this is the real truth; for certain I am, that many from obscure and humble people have become illustrious by means of this discipline, and, in particular, that Solon both in his lifetime and after his death acquired the highest renown: nor was he excluded from other honours; for he left the trophy of his victory over the Megarians as a monument of his valour, and his recovery of Salamis as a monument of his good policy, and his laws as a monument of his general wisdom, laws which even at this day continue to be in force among most of the Greeks; yet, with all these titles to glory, there was nothing about which he was so anxious as to be reckoned one of the seven wise men, considering that philosophy brought not disgrace but honour to her votaries, and exercising in this very matter as sound a judgment as in the other things wherein he obtained distinction.

Such is my own decided opinion, and therefore I advise you to pursue the study of philosophy, bearing in mind the natural talents which you possess. It was for this reason that I enlarged upon them at the outset of my speech, not because I expected to win your favour by praising your good qualities, but that I might urge you the more to the study of philosophy, hoping that you would not be indifferent to it, and that you would not neglect future advantages through an overweening pride in those which you possess already. Do not, because you are superior to your ordinary companions, renounce all endeavour to outshine others, but hold that the highest object of ambition is to be pre-eminent among all, and that it is better to be seen aiming at this than excelling among ordinary people. Do not dishonour your character; do not disappoint the hopes of those who take a pride in you, but endeavour by exerting yourself to the utmost to surpass the wishes of your warmest friends. And consider that other speeches, when they are well composed, clothe with renown those who speak them, but that counsel confers honour and advantage upon those who follow it, and that judgment in other matters displays the taste and feeling which we possess, but the choice of our pursuits is a test of our whole character. Now that you are forming a judgment upon this matter, expect that you yourself will be judged by all, and that I who have thus zealously pronounced your

panegyric shall jointly with yourself be undergoing probation.[1] It is meet therefore that no blame should attach either to you for the praises which you shall appear to deserve, or to me for the friendship which I bear you. I should not so strongly have exhorted you to apply yourself to philosophy, had I not thought that this was the best practical proof I could offer you of my good wishes, and had I not observed how often the state, for lack of good men and true, took ordinary men into her service, and through their errors fell into the greatest misfortunes. In order that the state may get the benefit of your virtue, and that you may enjoy her public honours, I have addressed to you my warm exhortation. I do not think indeed that you will be at liberty to live a life of chance, but that the state will call upon you to administer her affairs, and, the more illustrious your character is, the higher duties she will deem you worthy to fulfil, and the sooner she will desire to make trial of your powers. It is right therefore that your intellect should be duly cultivated, that you may make no mistake when called upon to use it.

It was my business to state what I conceive ought to be done by you: it is yours to take what I have said into consideration. In like manner it becomes all who seek to be intimate with you not to be content with superficial pleasures and trivial employments, or to encourage your attention to them, but to exert themselves with zeal and industry to make your life as glorious as possible; thus will they earn the noblest praise for themselves, and confer the greatest benefit upon you. I find no fault, as it is, with any of your associates; indeed I regard it as an ingredient in your good fortune, that you have found no unworthy lovers, but only such as one would willingly select from all one's companions to be intimate friends. I recommend you however, while you cherish their friendship, and make yourself agreeable to them all, to follow the counsels of those who possess the most understanding, that you may be held in yet higher esteem both by those men themselves, and by the rest of your fellow-citizens. Farewell.

[1] Pabst—"Sollst Du denken, dass ich selbst, der ich Dich mit so bereitwilligen Eifer gelobt habe, mit betheiligt seyn werde beim Kampf Deiner Bewährung."

EXORDIA.

PREFACE.

The collection of exordia which have come down to us under the name of Demosthenes is not without interest for the modern reader, whether we suppose them to be entirely genuine or not. They have been acknowledged as such by ancient critics ever since the time of Callimachus, who made the collection for the Alexandrine library; and they are found in all the manuscripts of the works of Demosthenes. Among others who recognise them as genuine are Pollux, Harpocration, and Stobæus. The greater number of modern critics have subscribed to this opinion, though some, as Böckh, Dindorf, and Kiessling, have expressed doubts upon the subject. Schäfer has doubts about exordia 54 and 55; of the rest, after citing the opinion of Fabricius, that they were "a Demosthene per otium elaborata, quibus in tempore uteretur," he says—"neque absurda videatur opinio suspicantis, hanc syllogen (a Technico, opinor, contextam) non sola progymnasmata, sed etiam deperditorum exordia orationum complecti. Sed rem utcunque disceptaveris, mihi quidem hæc procœmia lectu dignissima videntur: tantum enim abest ut redoleant umbram rhetoris obscuri, ut pleraque os referant summi oratoris." Pabst thinks they could hardly have come down to us in the present form from the pen of Demosthenes, because in some instances, where they appear to have been taken from orations actually spoken, they vary considerably from our existing copies of these orations. It is very possible however that the orator may have prepared an opening in one form and varied it in the delivery; for few men speak the exact words which they have prepared beforehand; nor can we assume that every oration was published in the words in which it was delivered; indeed it is almost impossible that this should be so, for the ancients did not have the assistance of shorthand writers, as we have now. The opening of a speech is by no means the least important part of it, and often not the least difficult part. Sometimes it is in the choice of the topic, and sometimes in the form of the language, that this importance and difficulty consist. In the former case the speaker, having chosen his course of argument, though he has clothed this in words in his chamber, will often, when he comes to speak, not hesitate to vary the words, while he adheres to the sense. In the latter case his object rather is to please the ears of his audience by launching gracefully into his subject, and for this purpose the choice of words and phrases, the composition, in short, is the thing to be attended to. Many of the following exordia are

capable of being applied or adapted to any occasion upon which the orator's power might be called forth. We may easily conceive that Demosthenes may have composed them either as a useful exercise in the art of speaking, or to be used *pro re natâ;* for we know that he did not like to mount the platform, either at the bar or in the assembly, without due preparation, and the Athenian ear, accustomed to the finest kind of eloquence, had become extremely fastidious and *exigeant.* It has been observed on the other hand, that compositions, which have nothing in their subject or their circumstances to fix the authorship, may easily have been fabricated by some grammarian and palmed off upon our author. Kiessling conjectures that these exordia are taken from the speeches of various Attic orators, and were collected by some rhetorician for scholastic purposes. But, if this were so, we should probably have found among them some of those written by the predecessors and contemporaries of Demosthenes, which have been handed down to us.

I.

Had the question for debate been anything new, men of Athens, I should have waited until most of the accustomed speakers had delivered their opinions; and, if any of their counsels had been to my liking, I should have remained silent, if otherwise, I should have proceeded to impart my own. As the subject of discussion however is one upon which these men have often spoken before, I conceive that, even though I rise the first, I may fairly be considered to speak after them. Now then to the point. If our affairs had been prosperous, there would have been no need of counsel; but since, as you all see, they are in a wretched state, I will endeavour to advise you accordingly, and state what I consider to be your wisest course. In the first place, you ought to be convinced, that what you have been doing during the war you must do no longer, but exactly the reverse. For, if your former measures have damaged your affairs, measures of an opposite kind may very likely retrieve them. In the next place, you must not consider that person to be your best counsellor, who makes little or no demand upon your exertions; (for you see that such advice and such hopes have brought our state to the extremity of distress;) but he is the best counsellor, who, caring not to please the ear, advises such measures as will rescue us from dishonour and calamity. If indeed what one passes over in speech, to avoid giving you pain, could be passed over in reality, your orators should strive only to make themselves agreeable: but if what is

pleasing in speech, when it is not meet for the occasion, becomes injurious in point of fact, it is disgraceful to cheat ourselves, and to do under the pressure of extreme necessity what we ought to have done voluntarily long before.

II.

Not the same thoughts present themselves to my mind, O Athenians, when I hear the name which you give to your constitution, and when I see the manner in which some of you treat those who speak in its defence. You call your constitution a democracy, as you are all aware; and yet I see many among you preferring to hear those who speak in opposition to it. And I wonder what can possibly be the reason. Do you think they speak thus without being paid for it? I should imagine, the leaders of the oligarchies, on whose behalf they speak, would rather give them more to be silent. Or do you regard what they say as better than what is said by others? If so, you must deem oligarchy better than democracy. Or do you esteem the men themselves more highly? How can it be right for you to hold any orator in esteem, who assails the established constitution? Nothing then remains, but that you are in error when you take such a view. Beware, O Athenians, of falling into such error; lest you should give a handle to those who are plotting against you, and only find out your mistake when it will be no manner of use to you. That everything should not be exactly as we could wish, either with ourselves or our allies, is perhaps not very surprising, men of Athens: for many events are determined by the chance of fortune, and there are many reasons why things do not turn out as men expect. But that the people should get no share of anything whatever, and that their adversaries should always prevail against them, is in my judgment, men of Athens, a thing both to surprise and alarm those who reason rightly. This is the commencement of my address.

III.

I believe, men of Athens, you would give a great deal to discover what is the true policy to be adopted in the present matter of discussion. This being the case, you ought willingly and cheerfully to hear those who offer you their counsel.

You will then not only have the benefit of those counsels which have been well considered beforehand, but I reckon it part of your good fortune, that many useful suggestions will occur to some of us at the moment, so that from them all you may easily select what is most expedient.

IV.

It is right, men of Athens, as it is in your own power to adopt what counsel you please, that you should hear all that is offered. For it often happens, that the same man says one thing amiss, and another not so: by clamouring him down in an ill humour you may perhaps lose many important suggestions, whereas by listening decorously and in silence you will at the same time do everything that is proper, and disregard what in your judgment is worthless. I myself am never wont to be tedious, and, even were that my ordinary practice, I should have avoided it on the present occasion. I shall proceed to explain in the fewest possible words what I believe to be your wisest course.

V.

I see, men of Athens, it is perfectly clear, what speeches you hear with pleasure, and what are not agreeable to you. However, I consider that to speak only for your gratification is the part of persons seeking to impose upon you, and I hold it to be the duty of a well-disposed and honest citizen, advocating measures which he is persuaded will benefit the state, to endure even your clamorous opposition or any other displeasure which you like to show. I should wish you on this account, if on no other, to hear patiently the speeches of both sides, in order that, if you think any one has advised a better course than that which you are bent upon, you may adopt his advice; on the other hand, if he fails and is not able to convince you, this may appear to have happened by his own fault, and not through your unwillingness to hear him. Besides, no such unpleasant consequence will follow from hearing a man talk nonsense, as from stopping the mouth of a man who has something good to say. The foundation of all correct judgment is to believe that you understand nothing before you have learned it; which is the more necessary when you reflect how often people have

changed their opinions. If you now are persuaded of the truth of this principle, I think that even I myself may in a few words say something to deserve your attention, and that you will think I offer you the best counsel.

VI.

Although many speeches, men of Athens, have been spoken by your advisers, I do not see that you are any nearer the discovery of what ought to be done, than you were before you came up to the assembly. This, I take it, is owing to the same cause as the general miscarriage of your affairs. Your orators, instead of advising what is for the best, accuse and revile one another, with the object, as it seems to me, of accustoming you to hear extra-judicially all the mischief that they do, so that, if ever they should happen to be brought to trial, you, considering the charges against them to be nothing new, but only what has often excited your wrath before, may pass a more lenient judgment upon their deeds. It would perhaps be foolish on the present occasion to institute a minute inquiry into the motives of their actions: I pass my censure upon them for this reason only, because such conduct is detrimental to your interests. I will neither accuse any man to-day, nor will I promise anything which I do not mean immediately to perform, nor in short will I imitate in any way these men whom I oppose; but I will state in the shortest possible compass what I consider to be your best and most prudent policy under existing circumstances, and having stated this, I will descend from the platform.

VII.

It appears to me, O Athenians, that the men who praise your ancestors adopt a flattering language, not a course beneficial to the people whom they eulogise. For, attempting to speak on subjects which no man can fully reach by words, they carry away the reputation of clever speakers themselves, but cause the glory of those ancients to fall below its estimation in the minds of the hearers. For my part, I consider the highest praise of our ancestors to be the length of time which has elapsed, during which no other men have been able to excel the pattern of their deeds. I will myself endeavour to show, in what way according to my judgment your pre-

parations may most conveniently be made. For thus it is. Though all of us who intend to speak should prove ourselves capital orators, your affairs I am certain would prosper none the more: but if any person whomsoever came forward, and could show and convince you what kind and what amount of force will be serviceable to the state, and from what resources it should be provided, all our present apprehensions would be removed. This will I endeavour to do, as far as I am able, first briefly informing you, what my opinion is concerning our relations with the king.

VIII.

It appears to me, O Athenians, that both are at fault, they who have spoken for the Arcadians, and they who have spoken for the Lacedæmonians. For, as if they were deputies from either people, and not citizens of Athens, to which both direct their embassies, they accuse and attack one another. This might be the duty of the envoys; but to speak independently on the question and consider your interests dispassionately, was the part of men who presume to offer counsel here. I really think, setting aside the knowledge of their persons, and their Attic tongue—many would take them for either Arcadians or Laconians.

I see how vexatious a thing it is to advise for the best. For, when you are carried away by delusion, some taking one view and some another, if any man attempts to advise a middle course, and you are too impatient to listen, he will please neither party, and fall into disgrace with both. However, if this be my case, I will rather myself be thought a babbler than leave you to be misled by certain people contrary to my notion of Athenian interests. On other points I will speak with your permission afterwards; but will begin with principles admitted by all, and explain what I consider to be your wisest policy.

IX.

I have risen, men of Athens, because I do not concur in opinion with some of those who have addressed you. I shall not accuse them however of having given unwise counsel from bad motives: my idea rather is, that many persons, neglecting to form a judgment of things, are accustomed to

consider only what words they shall speak, and if they can but find plenty of those, they are ready to harangue the assembly. There they are in error, and do not reflect, that many acts are performed by all people in a long space of time, and some of them of a contrary character, owing to the variety of the occasions; therefore, if you pass over the earlier ones and refer to the later only, nothing in the world is easier than to deceive yourself. It seems then to me, that counsellors who advise you on such principles have no other ambition than to be thought clever speakers: but in my judgment, when a man undertakes to advise the state on public measures, his end and aim should be, that her resolutions may be crowned with success, not that his own extempore language may please the ear. Men who get renown for their speeches should have the accomplishment of some useful work to boast of, that their words may sound well not for the moment only, but for ever.

X.

If you have already determined, men of Athens, what is the best course to be adopted on the present occasion, it is an error to propose a question for consultation: for why should you be troubled with an idle discussion on measures, which you have yourselves decided to be advantageous without hearing discussion? If however you are considering and deliberating, with a view to form your judgment after hearing what is to be said, it is not right to stop the mouths of those who are willing to offer you counsel. For, by so doing, you wholly lose from some men what they have devised for your advantage; and you cause others to suppress their real opinions, and to advise only what they think you desire. If you wish to be in error, you will compel the speaker who addresses you to say what you desire; if you are really deliberating, you will take into consideration what he conscientiously advises; and act upon it if it is expedient. I say this, not because I am about to offer advice contrary to that which is agreeable to you, but because I am sure that, if you don't choose to hear my opponents, they will say that you have been deceived; but, if you hear and reject their advice, it will be plain that they were proved at the time to have advised you ill.

XI.

I presume you all know, men of Athens, that you are come here to-day not to sit in judgment upon offenders, but to deliberate upon the question before you. It becomes you therefore to throw aside all accusations: it will be time for any man to denounce his adversary before you, when we bring him to trial; now it is his business to offer that advice, which is likely to serve or benefit the commonwealth. Accusation is for those who find fault with the past; counsel is asked for the present and the future. It seems to me, the present is not the occasion for censure or abuse, but for counsel. I shall endeavour therefore to avoid myself that which I condemn in others, and I shall offer such advice as I deem the best under existing circumstances.

XII.

I conceive, men of Athens, you will none of you dispute, that it is the part of an ill-disposed man and a bad citizen, to cherish such a liking or such a hatred to any of our politicians, as to disregard the interests of the state, and speak in the assembly from motives either of spite or rivalry: which is done by some of those who mount the platform. To them I will only say this much: it appears to me, that, whatever they have done in this way, their fault consists less in what they have done, than in the resolution which they manifest never to amend. To you my advice is, that you do not abandon yourselves to these persons and imagine it will be sufficient to punish them when you like, but that you check their malpractices as far as you possibly can, and at the same time, as becomes men consulting for the commonwealth, that you discard your own private jealousies and look only to the public interests, remembering that no man, not indeed the whole community of statesmen, would be competent to make amends, if the laws which are entrusted to your care were destroyed.

XIII.

It may be displeasing to some people, O Athenians, that a private person and one of the many, like yourselves, should come forward after these other statesmen, who by their long political experience and high repute hold the foremost rank

among you, and should venture to declare, that they appear to him not only to offer you wrong advice, but to be very far from understanding your true interests. However, I am so strongly convinced of the superiority of my counsel to theirs, that I shall not hesitate to express my opinion that all which they have said is utterly valueless. And I think that your right course will be, to regard not the speaker but the policy which he recommends. Your favour, men of Athens, should not attach itself like an heirloom to particular persons, but should be given to your wisest counsellors for the time being.

XIV.

I shall be glad, men of Athens, if you listen with attention to what I am about to say; for it is a matter of no slight importance. I wonder how it happens, that, before you have gone up to the assembly, any one of you that one meets is ready at once to declare by what means our affairs may be retrieved; and again, as soon as you have left the assembly, every one in like manner will give his opinion what ought to be done; yet, when you are debating on the question and collected together, you hear people saying anything rather than that. Is it, men of Athens, that each of you can understand what is for the best, and knows how to point out the duties of others, but will not gratify you by performing his own? And while each in his individual capacity censures others, to make a show of zeal on his own part, does he in his civic capacity abstain from voting measures, which would compel you all to take your share of doing public service? If you think the time will never arrive, to expose this dissimulation, it would be well to continue in such a course. But if you see that this crisis is fast approaching, you must take care that you have not to struggle close at hand with perils, which you may take precautions against from a distance, and do not find those who are now disregarded rejoicing hereafter at your misfortunes.

XV.

In regard to the present affairs of the commonwealth, men of Athens, though they are not in the most prosperous condition, it does not seem to me very difficult to discover the

best means of improving them—and yet, to choose the fittest method of discussing the question in your assembly, is a thing exceedingly perplexing, as it seems to me—not that you will fail to comprehend what any one says—but you have been so accustomed to hear a variety of false statements, and (in short) anything rather than what is for your advantage, that I fear, whoever now advises you for the best, will incur that displeasure which ought to fall upon those who have deceived you. For I find that you are generally angry not with the authors of any mishap, but with those who are the last speakers on the subject. However, notwithstanding that I have thus carefully weighed these things in my mind, I deem it right to cast aside all other considerations, and give you the best advice that I can upon the question before you.

XVI.

I should be glad, men of Athens, to see you treat yourselves with the same kindness which you are accustomed to show to all other people: but at present you are more skilful in repairing the disasters of others than in attending to what concerns yourselves. It may be said perhaps that this very thing reflects the greatest glory upon the state, that she has chosen to encounter a multitude of perils for the sake of justice only, without regard to her own private advantage. While I acknowledge the truth of this, and accept it as being most creditable to our commonwealth, I hold it at the same time to be the duty of prudent men, to make no less careful provision for their own interests than for those of strangers, that they may show themselves to possess wisdom as well as humanity.

XVII.

Perhaps, men of Athens, it becomes those who aspire to be your counsellors, to frame their speeches in such manner as will be acceptable to you; or, if not this, to discard every other topic, and confining themselves to the simple subject of debate, to address you in the fewest possible words. For it seems to me, that it is not for lack of words that your affairs have all gone to wreck, but because some of your public men, both in their speeches and their politics, study only their own selfish advantage, while others, who have not yet given

proof of this, strive rather to get the reputation of clever speakers, than to effect any useful result by their eloquence. That I may not myself do the reverse of what I declare to be right, and say more upon irrelevant topics than upon those which I have risen to discuss, I will dismiss further preface, and proceed at once to tell you what I mean to advise.

XVIII.

It appears to me, men of Athens, that you ought to give your attention, if any one undertakes to show you that the measures upon which we are deliberating are at the same time just and expedient. I think I shall be able to do this without difficulty, if you will but listen to me with the least degree of favour. You must none of you be positive that the opinion which you happen to have formed upon the present question is the right one, but, if any contrary opinion is given in the course of debate, you must hear it patiently to the end, consider it well, and then, if it meets with your approval, adopt it. For if any measure be attended with success, the merit of it will quite as much belong to you who adopt, as to him who advised it. The beginuing of prudent deliberation is, not to have made up your minds before you hear the data upon which you have to form your judgment. For the confirmation of your resolve and the consideration of your policy differ both as to the time and the method of proceeding.

XIX.

I have come forward, men of Athens, to consult with you whether I ought to make a speech or not. Why I am unable to decide this myself, I will tell you. It seems to me, that one who is not seeking the gratification either of himself or others, but only to speak on your behalf what he is persuaded will be for your advantage, is under the necessity as well of supporting what both sides counsel wisely, as of opposing what both urge unjustly. If you will submit to hear both these lines of argument, which I shall address to you in a short compass, your consultations for the future will be attended with much better results. But if you shut your ears against me, before you have heard what I have to say, it will be my fate to offend both sides, without giving cause of offence

to either. This will be very hard upon me. Therefore, if you desire it, I am ready to speak; if not, it is better to be silent.

XX.

I consider that it is both right and expedient for you, men of Athens, when you have to consult on state affairs, to forbear attacking and accusing each other, and confine yourselves to the expression of your several opinions upon the matter before you. That it is owing to certain persons that our affairs are in a bad condition, we all know; but the business of a counsellor is, to show by what means they can be retrieved. Besides, it appears to me, that the sharpest accusers of the guilty parties are, not those who inquire into their conduct upon occasions when they cannot be brought to justice, but those who are able to give counsel by which the present state of things may be amended: for through them you may be enabled in a time of tranquillity to punish the offenders. I look upon everything else as superfluous, and will address to you only such arguments as bear usefully on the present question, making first one single request. If I should happen to mention anything which has been done, don't suppose that I allude to it by way of censure, but that my object is, to point out the errors which you then committed, and so to prevent your falling into them again.

XXI.

If in bygone time, O Athenians, we had not attached ourselves to any political party, and had kept as quiet as we are keeping at present, I believe that what has now taken place would never have occurred, and I think that in many other respects you would have been much better off. Now, through the reckless misconduct of some of your statesmen, it is not possible either to come forward or to speak, or even to get a hearing; and this, I take it, gives rise to many not very pleasant consequences. If then we are obliged to hear tidings of these things, and then to consider what is to be done, and to suffer what you are now willing to suffer, you will vote, as you have been accustomed in past times, to launch triremes, to embark, to pay a property tax, to do all this immediately; and in four or five days, if there is no news of the enemy and

they remain quiet, you will change your minds and think the opportunity for doing all this has passed away. So it happened, when we heard that Philip was in the Hellespont, and again when the privateering ships touched at Marathon. For it is your practice, men of Athens, to employ deliberation, as people ought to employ a military force—with speed. But you ought to do the reverse—deliberate quietly, and execute your resolutions promptly; and you should consider also, that, unless you furnish sufficient provisions for your troops, and appoint an able general to conduct the war, and are determined to carry out the measures on which you have resolved, your decrees will survive, and the outlay which you have incurred will all be thrown away, but your affairs will be none the better, though you may bring whom you please to trial in your anger. For my part, I would rather you should be seen resisting your enemies than trying your countrymen; we should wage war with the former, and not with the latter. However, that I may not content myself with doing the easiest thing in the world—finding fault—I will explain to you how I think you may accomplish this desired object. But first let me entreat you not to make a clamour, and not to imagine that I am seeking to waste time or interpose delay. It is not those who cry "to-day!" "immediately!" who speak most to the purpose: for what has already happened we shall not be able to prevent by our present armament: no; the most serviceable speaker is he, who can show what force provided now will be capable of holding out, till we have either overcome our enemies or advisedly terminated the war. So shall we escape from annoyance in future.

XXII.

I take it, you will all agree, men of Athens, that, when our state is deliberating about any of her private affairs, she ought to take as much care of her own interests as of justice; but when she deliberates about the affairs of her allies or the whole Greek community, as she is now doing, she should have a most especial regard to justice. In the former case our own advantage is the single point in question, in the latter case honour enters into it as well as advantage. For, though actions are under the control of those to whom they

appertain, the opinion formed of them is beyond the control of any man, be he as powerful as he may: but, whatever character the acts themselves bear, the same will be attached to the actors by the general voice of mankind. Therefore you must use care and diligence, that all your measures may appear to be just. Your feelings concerning the injured parties should be such, as you would desire those of other people to be towards yourselves, in case anything should happen which I pray to heaven never may. Since however there are some persons here who oppose them contrary to their own real sentiments, I will address a few words to them, and then proceed to advise those measures which I think best for the commonwealth.

XXIII.

I suppose, men of Athens, you would regard it as no slight disadvantage, if an opinion unfavourable and discreditable to our commonwealth were to get abroad among the Greeks. There is no doubt what your feelings are upon this point, and yet your conduct is not consistent with them; for you are led on from time to time to do certain things, which you will yourselves acknowledge not to be honourable. I know well enough that all men are more pleased to hear those who praise than those who censure them; and yet I do not think it right to court this kind of favour by advising you contrary to your interest. If you did but determine rightly in the beginning, there would be no need to adopt public measures which you condemn in private, to prevent the occurrence of what now takes place. Every man cries out—how disgraceful, how shocking these things are! how long will things go on so?—and at the same time every one, when he takes his place in the assembly, sides with those who do these things which he condemns. Sure I am, O Athenians, it is for your advantage to listen to an honest counsellor; I wish I were equally certain what will benefit the honest counsellor himself; for then he would address you with more pleasure. Now I have misgivings; however I will not shrink from declaring what I believe to be good advice, whether you follow it or not.

XXIV.

Though one had never spoken a word before in your assembly, men of Athens, one might well be pardoned, I think, for rising now to answer the unjust complaints which the ambassadors have made against the commonwealth.

To be worsted in other things by your adversaries may be thought more a misfortune than a disgrace; for it depends on fortune and commanders and many other causes, whether you succeed or not: but, when people are unable to justify themselves in a manner worthy of their own dignity, the disgrace, we shall find, belongs to the very nature and spirit of those who are so circumstanced. Had it been any other assembly before which such things had been said of you, neither would these men, I guess, have been so ready to utter falsehoods, nor would the hearers have tolerated many of their assertions. But, as all men abuse your good nature in some way or other, so have these men, as it appears, taken advantage of it on the present occasion: for they have got you to listen to them against yourselves in a way that no other people would have done, I am quite certain. But it seems to me, O Athenians, that you ought on this account to be thankful to the gods, and to regard these men with abhorrence. That they should see the Rhodian people, who once addressed more insolent language to you than these men themselves, now suppliants for your protection, I consider to be a fortunate thing for our commonwealth: but that these senseless men should neither take this into account, when it is so manifestly before their eyes, nor reflect that you have often saved them one and all from destruction, and that you have had more trouble in repairing the mischief caused by their temerity and infatuation, when they have embarked in war on a quarrel of their own, than in administering your domestic affairs—this, as it appears to me, ought to excite your utmost displeasure. However, it is perhaps the destiny of these men never to be wise in prosperity; but we, both for our own sakes, and on account of our former achievements, should be ambitious of proving to all mankind, that our principle ever has been and ever will be, to do justice, while certain people, who wish to enslave their fellow-citizens, calumniate them before us.

XXV.

If, men of Athens, you heard the counsels of your statesmen and judged their measures in the same spirit, nothing could be more safe than to offer you counsel. For, when the result was good and prosperous—I must say nothing but what bears a good omen—the merit would be equally shared between you and the adviser. Now, however, you are glad to hear men advise what is agreeable, but frequently accuse them of deceiving you, if everything does not turn out as you could wish, not reflecting that, although every one has it in his power to inquire and consider what measures are for the best, as far as human reason will enable him, and to tell you the result of his inquiries, the execution and success of such measures depend for the most part upon fortune. It is sufficient that a human being should be responsible for his own intentions; that he should be made to answer for fortune also, is a matter of impossibility. If any means had been discovered of speaking on state affairs without peril, it would be madness not to adopt such means: but since it is necessary, that one who delivers his opinions upon a future policy must participate in the consequences and take his share in the blame of them, I think it would be disgraceful to hold oneself out as an honest and well-meaning statesman, and then to shrink from the danger (if any) which ensues. I pray to the gods, that, whatever advice is likely to benefit the commonwealth and myself, may come into my mind to suggest and into yours to adopt. To wish for victory only, without caring how it is achieved, is a sign, I should say, either of madness, or of a person striving for his own private advantage.

XXVI.

I pray, men of Athens, that as well upon the present occasion, as upon every other when you meet in assembly, that line of policy which you deem the best may be so in reality. It is right, I think, when you are deliberating on questions of importance, that you should be willing to hear all your advisers impartially, bearing in mind, O Athenians, that it is disgraceful to make a clamour now, when certain persons wish to give you counsel, and hereafter to listen with pleasure to these same persons denouncing what has been done. I

know, and I think you know, that for the present moment those orators please you best, who say what you wish them to say; but should anything happen contrary to what you expect, as I trust may not be the case, you will think that these men have deceived you, while those, whom now you cannot endure to hear, will be regarded by you as oracles of wisdom. It is most especially for the interest of those, whose advice has wrought so strongly with you now, that their opponents should obtain a hearing. For if they are able to convince you, that the policy of these men is unsound, having done so before any error has been committed, they will keep them safe from all danger: if they cannot convince you, they will at all events have no right to find fault hereafter; but having obtained what in courtesy they were entitled to, a hearing, if they are fairly beaten in argument, they will be content, and, whatever may be the consequences, they will take their share in them with the rest of you.

XXVII.

I think, men of Athens, that on a consultation of such moment you ought to grant perfect liberty of speech to every one of your advisers. For my own part, I have never thought it difficult to make you understand right counsel—for, to speak plainly, you seem all to possess the knowledge yourselves—but to persuade you to follow it I have found difficult; for, when any measure has been voted and resolved, you are then as far from the performance as you were from the resolution before. One of the events, for which I consider you should be thankful to the gods, is, that a people, who to gratify their own insolence went to war with you not long ago, now place their hopes of safety in you alone. Well may we be rejoiced at the present crisis: for, if your measures thereupon be wisely taken, the result will be, that the calumnies of those who traduce our country you will practically and with credit and honour refute.

XXVIII.

The hopes held out by the speeches which you have just heard are great and glorious, O Athenians, and I imagine they have put most of you, without due reflection upon

them, in a state of warm excitement. I myself never wish to say anything to you for the purpose of immediate gratification, which I do not think will benefit you hereafter. I know it is the common custom with most people to like those who approve what they do, and to have unfriendly feelings towards those who find fault with them. A wise man however should always strive to make his desires subject to his reason. Gladly would I have seen those measures, which are likely to be for your advantage, agreeable for you to execute, so that my counsel might have been at the same time pleasing and useful. As however I perceive that you are bent on taking a contrary course, I deem it my duty to oppose it, even at the risk of incurring odium with a certain party. If you will not endure to hear a single word, your resolutions will appear to have been formed not from error of judgment, but from a natural inclination to do wrong. But, if you will listen to me, you may possibly change your opinion, which I apprehend will be of the greatest advantage to you; or, if you do not, it will be thought that some of you are blind to your true interests, and others—whatever people choose to say.

XXIX.

First let me observe, men of Athens, that it is nothing new to find opponents of your resolutions in assembly, when some measure has to be carried. If you granted them liberty of speech in your debates, and they exercised it at the time, you might justly complain if they again obtruded upon you the arguments which were rejected before: but now it is not at all unreasonable, that these men should wish to say what you refused to hear on the former occasion, and it is you, men of Athens, who may fairly be blamed, because, when you are debating a question, you do not allow every one to declare his own opinion, but let some speakers preoccupy your minds, and refuse to hear any of the rest. From this results a consequence which cannot be agreeable to you; that those, whose advice you might have followed before you committed any mistake, you praise afterwards when they appear as accusers. In this very predicament, as it seems to me, you will again find yourselves, unless you give an impartial hearing to all on the present occasion, and submit

patiently to the trouble, and then, after having chosen what you judge to be the wisest policy, you reprobate the conduct of those who find fault after the event. I have thus deemed it right to declare in the outset what are my views upon the question before you, so that, if they meet your approval, I may proceed with the rest of my argument; if they do not, I may forbear either to annoy you or trouble myself any further.

XXX.

You ought, men of Athens, before you went to war, to have well considered what force you would have to meet its exigencies. If it was not clear beforehand that war was impending, you ought at least, when the prospect of it became certain and you were deliberating upon it, to have well considered the means of carrying it on. If you mean to say that you have put large bodies of troops into the hands of your commanders, and that they have lost and cut them up, no one will accept this excuse; for the same people who acquit by their verdict the administrators of their affairs cannot say that they have brought them to ruin. However, since the past cannot be recalled, and we have to apply the best remedy which existing circumstances will allow, I see no advantage now in making accusations, but I will endeavour to give you such advice as occurs to me. In the first place, then, you must make up your minds to this, that the zeal and energy, which every individual is now called upon to display in public affairs, must be as extraordinary as was his negligence in times previous; so it is just possible that by long and strenuous exertions we may recover what has been thrown away. In the next place, you must not be dejected by the events which have happened: for that which is worst in the past is best for the future. What do I mean, O Athenians? I mean that your affairs are in bad plight because you do nothing that is needful: if you had performed your duties and it were still the same, there would have been no hope of amendment.

XXXI.

Nothing is more offensive, O Athenians, than that your public speakers should censure and adopt the same practices.

That they should quarrel and abuse each other without coming to any judicial decision, must be injurious to the state; there is no one so thoughtless as to dispute this. I think for my part, that these men would be improved, if, when they addressed you in public, they turned their mutual rivalries against your enemies. To you my advice is, not to side with either faction, not to care whether the one or the other prevails, but to aim only at this, that you may all get the better of your enemies. And I pray to the gods, that those, who either from jealousy or spite or any other cause offer different counsel from that which they in their hearts approve, may desist from such practices: to pronounce a curse upon any counsellor of the republic would perhaps be out of the way. I will accuse no individual, O Athenians, of being the author of our misfortunes: I charge them upon the whole body of these men. And I think that you should demand an account from them, when you are able to do it, at your leisure: now you have to consider, how your affairs may be retrieved.

XXXII.

I could have wished, men of Athens, that some of our orators had exerted themselves as much to give honest advice as they do to show off their powers of speaking, so that they might have been thought to be honest men rather than clever speakers, and your affairs might have improved as they ought. It appears however to me, that certain persons are content with getting a reputation for eloquence, and are wholly indifferent to the practical consequences of what they advise. And I wonder very much whether speeches of this kind are calculated to deceive the maker of them as much as they deceive them to whom they are addressed, or whether these persons understand that they are giving counsel contrary to their own honest opinions. For, if they are ignorant that one who means to effect anything important should not be bold in speech but strong in the sinews of war, not be confident because his enemies will lack power, but because he can overcome them even if they possess power, the graces of language, as it would appear, have prevented their seeing the most important truths. But, if they would not venture to say that they are ignorant of these things, and if there is

some other reason why they adopt their present course, how can you help thinking that it is a bad reason, whatever it is? I will not shrink from declaring to you my opinion, though I see that you have a bias; for it would be foolish, when you are unfairly prejudiced by one argument, to be afraid of advancing another which is likely to be more sound and more serviceable. I entreat you to hear me with patience, remembering that you would not have taken the views you have, if you had not heard arguments which convinced you. As, if you were judging of the value of certain coins, you would have thought it right to assay them, so now I ask you to judge the argument which has been addressed to you by what I have to say against it. If you find it to be sound and good, adopt it, and may good fortune attend you; but if, upon a careful consideration of all the particulars, you think it unsound and inexpedient, then I trust that, before you have committed any error, you will change your minds and adopt a course which is more prudent.

XXXIII.

My first wish, men of Athens, is, that you would adopt the advice that I am about to offer: should that wish however prove vain, my greatest satisfaction will be, that I have spoken it. It appears to me that it is not only difficult to offer you the best counsel in debate, but to discover it by thought and reflexion. Any one would be convinced of this, who thought that you regarded not the words but the things that you are engaged about, and who take more pains to be thought an honest man than to appear a clever speaker. For my own part, I assure you, as I hope to prosper, that, when I began to consider the present question, an abundance of words occurred to me, which would not have been disagreeable for you to listen to. I saw, and I still see, that there was much to be said about your being the justest of the Greek people, and about your being descended from the best ancestors, and a good deal more of that kind. But things of this sort, though they give pleasure at the time of utterance, pass away directly and come to nothing. Your speaker ought to advise some practical course which shall secure the attainment of a future benefit. This, I know by experience, is a rare and a difficult thing to accomplish. It

is not sufficient merely to see what is best, unless one can convince you who have to cooperate in its procurement. However, it is my business, I suppose, to advise what I am persuaded is advantageous; it is your business, O Athenians, to hear and judge, and, if it pleases you, to adopt it.

XXXIV.

It was easy to conjecture, men of Athens, a little while ago, when you refused to hear those who wished to oppose what this and that person said, that what is now taking place would occur, namely, that those who were prevented from speaking then would come forward in another assembly. If therefore you repeat what you did before, and refuse to hear the men who wished to support your former decrees, they will take the same course again in the next assembly and impeach the resolutions of to-day. Your affairs, men of Athens, cannot possibly be worse, nor the absurdity of your conduct be made more apparent than it is now, when your resolutions never come to any issue, you disregard your interests, you do nothing to forward them, and attach yourselves (as it were) to any persons who first occupy the stage. Let not such practices continue, O Athenians; grudge not the labour, but give your attention equally to both sides; first choose the measures which you are to pursue, and then, if any one opposes the plan which you have deliberately decided on, regard him as a good-for-nothing person who is ill-disposed to you. When a man has not obtained a hearing, he may be excused for imagining that his own plans are preferable to yours; but if, after you have heard and determined, he persists in obtruding his opinion, instead of giving way to that of the majority, he may lie under the suspicion of dishonesty. I myself should have held my tongue on the present occasion, had I seen you adhering to your resolution of the other day; for I am one of those who approve of the course which you then adopted. As some of you appear to have changed your opinions through the speeches of these men, I will endeavour to show you that their statements are neither true nor for your advantage. Possibly you may know this already; however, I will take the chance of your being ignorant.

XXXV.

It was right and just, men of Athens, that, if any man had any counsel to offer, he should have endeavoured to convince you at the time when this question was the subject of debate, so that two consequences which are most injurious to the state might have been avoided; first, the eternal failure of your decrees, and secondly, your stultifying of yourselves by changing your resolutions. However, as certain persons who were silent then find fault now, I wish to address to them a few words. I am astonished at the character of their politics, or rather, I have a very poor opinion of it. For if, when they might advise you at the time when you deliberate, they prefer impeaching your decrees, they act the part of pettifoggers, not, as they say, of well-disposed citizens. I should be glad to ask them—(and don't let what I am about to say be the beginning of a squabble)—why, when they praise the Lacedæmonians in other respects, they do not imitate them in that which is the most admirable part of their conduct, but do exactly the reverse? For they say, men of Athens, that at Lacedæmon every man declares his own opinion until the resolution is passed, but, when once that is passed and confirmed, all approve of it and assist in its execution, even those who opposed it in debate. Therefore it is that the Lacedæmonians, though few in number, prevail over many, and gain by opportunities what they cannot acquire by war, and they never let any occasion escape them, nor any means of accomplishing what is for their advantage. Sure enough, they do not act as we do through these men and those like them—we who, in vanquishing one another and not our enemies, have wasted all our time—and if any man brings us from war to peace, we abhor him; if any one proposes war instead of peace, we quarrel with him; if any one advises us to be quiet and mind our own business, we say again that he is wrong; in short, we are always full of accusations and empty hopes. What then—it may be asked—do you advise, when you administer these rebukes? Well; I will explain.

XXXVI.

To begin, men of Athens—it appears to me, there is not much occasion to fear, that your consultations will not

prosper by reason of your unwillingness to hear your counsellors. For, in the first place, fortune is kind enough to put many things into your hand without any exertion on your part; few things indeed would have done well, if it had depended on the foresight of your statesmen. In the next place, you know beforehand not only the arguments which every one would urge, but also the objects which each of them has in addressing you, and (but that it would have been invidious) I might have added, the reward which he gets for it. You are wise, I think, in compressing into the smallest possible compass the opportunity of imposing on you. Were the arguments which I have to offer anything like what you have heard already, I should hardly have thought it worth while to trouble you. But what I have to say, while it is most important for your interests, will be wholly different from what is expected by the multitude. I shall not detain you very long. Hear and consider my advice, and then, if it pleases you, adopt it.

XXXVII.

The opening of my address, men of Athens, shall be both short and just; nor will I say all that I could say. For I hold, it is the part of one who meditates deceit, to try how by his speech he can hide disagreeable realities from you that hear him; but one who is resolved to deal with you plainly and honestly will make it his first business to declare which side of the question he comes forward to espouse, so that if, after hearing this, you desire to hear what further he has to say, he may state and explain the measures which he advises; if you disapprove of his views, he may retire and neither annoy you nor trouble himself. The first thing that I have to say is this—it appears to me that the people of Mytilene have been injured, and that it is your duty to obtain justice for them. I have the means of showing also, how you can obtain it; but first let me satisfy you that they have been injured, and that it is your duty to succour them.

XXXVIII.

Let me say in the outset, men of Athens, that I cannot wonder if your counsellors should find it difficult to advise you: for, when the affairs on which one has to deliberate are

in a bad condition, advice must necessarily be no easy matter. If there were any hope that by refusing to hear advice your affairs could be retrieved, it would be right to adopt such course; but if this, instead of mending, would only make them worse, how can it be right to let them sink to the lowest point of wretchedness, and endeavour to retrieve them after losing so much time and creating so many more difficulties, when it is in your power even now to extricate yourselves from your present embarrassments and re-establish your prosperity?

It is very natural that you should be angry, when you suffer such disasters; but, that you should vent your anger not upon the authors of the mischief, but upon every body in succession, is neither natural nor just. For those who are not chargeable with any of your past measures, but are prepared to show how the future may be amended, deserve, O Athenians, not your displeasure, but your gratitude; and, if you unseasonably repulse them, they will be disinclined to come forward in your behalf. I am not ignorant, that commonly it is not the guilty parties, but those who come in the way of your anger, who have to encounter its unpleasant consequences. However, I have risen to advise you, men of Athens, because I am persuaded that you will not find me to be the author of any foolish measure, but that I have better counsel to offer you than the rest.

XXXIX.

The events, men of Athens, are such as you have heard. You, however, ought on no account to be dismayed, remembering that despondency under misfortune is neither expedient for your affairs nor worthy of yourselves: your duty and your honour both require that you should make every exertion to recover what is lost. It becomes men who are such as you would represent yourselves to be, to exhibit more firmness than others under calamity. Grieved indeed I am, that such a disaster should have befallen the state; grieved I must be that any misfortune should happen to you: but if this was destined to happen, if it was reserved for us by a decree of Divine providence, then, I think, it is for your advantage that it occurred as it has done. For the changes of fortune are sudden; sometimes she favours one

side, and sometimes the other: but, when disasters happen through the cowardice of men, the effects are permanent. I think, even the conquerors are aware, that, if we are in earnest and our spirits roused by what has happened, it is not yet perfectly clear whether the event is a piece of good fortune for them, or the contrary. If the affair however has inspired them with false confidence, even this perhaps may turn out to your advantage: for, the more they despise you, the sooner will they commit some blunders.

XL.

It appears to me, men of Athens, that you are now deliberating not only concerning the state which you think, but on behalf of all the states in your confederacy: for, however you decide in the affair of this state, it is probable that the rest of your allies will take such decision for an example, and expect the same treatment for themselves. You must therefore have regard both to your interest and your reputation, and see that you take such measures as are at the same time just and expedient. The commencement of all these proceedings is with the generals; most of whom, when they sail from Athens, do not choose to pay court to your friends, who have been recommended to them as having shared the same dangers with you time out of mind; on the contrary, each of these commanders procures friends for himself, and then requires you to regard his flatterers as your friends; which is wholly contrary to the fact: for you could find no more natural nor more dangerous enemies than such persons. For, the more they cheat and defraud you, the more punishment they are conscious of deserving at your hands: and no man can be friendly to those, from whom he expects to suffer harm. The present occasion perhaps is not suitable for making accusations: I will proceed to offer that advice, which I think will be for your advantage.

XLI.

Among you all, men of Athens, I presume there is not one to be found so unfriendly to the commonwealth, as not to be grieved and distressed by the events which have occurred. If it were possible to undo aught of what has been done by

anger and complaint, I should have exhorted you all to take that course; but, since the past cannot be altered, and you have to provide for the future and to guard against similar occurrences, instead of expressing your vexation at what has happened, you ought, O Athenians, to give your serious attention to prevent the recurrence of such a calamity, and to assure yourselves that none of your statesmen has any counsel to offer, which can preserve the state without your cooperation; for that would be not counsel, but divine power. The cause of our wretched condition lies in this, that certain of the orators, in order to gain your favour at the moment, urge upon the assembly, that there is no need either to pay property taxes or to do military service, but that everything will come to you without your seeking or striving to get it. It would be well if these fallacies received another sort of refutation, and one attended with benefit to the state: it seems however to me, that even now fortune is in a manner kinder to you than your leading statesmen. For, while the many partial losses which you have sustained prove undoubtedly the baseness of those who administer your affairs, the fact that all has not been lost long ago I must regard as a signal proof of your good fortune. While then fortune allows you a respite, and keeps your enemies back, take precautions for the future. If you fail to do so, mind if you will not have to bring to task those who direct your affairs, while the prosperity of the commonwealth declines. It is impossible, O Athenians, that it can stand without something extraordinary occurring, when no one lends a hand to uphold it.

XLII.

It is by no means extraordinary, O Athenians, that those statesmen, whose unvarying policy is to give their support to oligarchies should be convicted of doing so on the present occasion. What may more reasonably excite wonder is this, that you, who are fully aware of the fact, should listen so often to these men with more pleasure than to those who defend your interests. Perhaps it is no more easy in public affairs than in private, to do always what is right; however, it is unquestionably wrong to neglect matters of the greatest importance. Other things are of less moment; but, when

you hear with indifference discussions about constitutional principles and massacres and putting down of democracy, how can one help fancying that you have lost your senses? People in general profit by the examples of others, to become more cautious themselves: but you, even when you hear what happens to your neighbours, cannot feel any alarm; on the contrary, while you would call any private person a simpleton, who did not take precaution against disasters; you make not the least effort, as a people, to avoid them, but wait, as it seems to me, till you are made sensible of them by experience.

XLIII.

Possibly, men of Athens, none of you has ever inquired, how it happens that people in adversity take better counsel upon their affairs than people in prosperity. The cause is no other than this, that the former neither dread any thing nor regard the dangers which are pointed out to them as appertaining to themselves; while the latter, who are constantly reminded of their errors, when they arrive at misfortune, are rendered cautious and prudent for the future. It is the duty of wise men, when fortune is most favourable to them, to behave themselves with the more moderation on that account; for, while there is no danger which may not be guarded against if you are provident, there is nothing which you may not expect to suffer if you are careless. I say this, O Athenians, not to inspire you with needless alarm; but that you may not be induced by your present good fortune to despise the dangers of which you are forewarned, which are likely enough to be realised if you are not careful to avoid them; and that, as becomes men who pretend to be surpassed by none in wisdom, you may take timely precautions without waiting for bitter experience.

XLIV.

There is one time for speaking to please you, and another for giving you sound and honest advice. Such is my opinion, men of Athens. For I observe, that one who speaks what is agreeable to you against his own conviction often draws greater enmity upon himself than one who opposes you from the first. Had you now all held the same opinions, I should

not have come forward to address you, whether I thought that you were right or wrong; for, in the former case, I should have deemed it superfluous to advise people whose own impulses prompted them to act wisely; and in the latter case, I should rather have believed myself, a single individual, to be in error, than all of you. As I see however, that some of you hold opinions coinciding with my own and differing from the rest, I will endeavour in conjunction with that section of you to convince the adverse party. Should you refuse to hear me, you would act very wrong; but, if you will listen to me in silence and be patient, one of two advantages you will gain. Either you will be persuaded by me, if what I recommend meets your approval; or you will be more thoroughly convinced of the wisdom of your present resolutions. Should the grounds on which I think you are in error appear to be futile, you will have proof that your measures are well chosen.

XLV.

I should be glad, O Athenians, as certain persons have acquired such renown in talking of these measures, that they might earn the like praise in the execution of them; for, by the Gods, I assure you, I have no unfriendly feelings towards them, and I can only have good wishes for you, O Athenians. But see whether it be not a very different thing to make a good speech, and to choose useful measures; whether the former be not the work of an orator, and the latter belongs to a man of understanding. You, the many, and especially the elder portion of you, cannot be expected to speak like the ablest orators; for this faculty is acquired by practice; but you ought to have as good an understanding as they have, and better; for this is given by experience and knowledge of the world. Do not then forget, O Athenians, on the present occasion, that courage and boldness of speech, unless you have material force at your command, pleasant as they are to the ear, lead to peril in action. For example, it is a fine sentiment to express, that you will not submit to injustice. But now look at the thing itself. Those who wish to realise to themselves this glorious sentiment must fight and conquer their enemies. All things, men of Athens, are easy to be spoken; but all things are not so easy to be done:

the same quantity of sweat is not necessary for speaking that is necessary for doing. I do not think that you are naturally inferior to the Thebans—I should be mad to think so—but you are not so well prepared. Therefore I say, you should begin now to make preparations, as you have been so long neglecting military service. I do not oppose the whole scheme, but differ as to the mode of conducting operations.

XLVI.

What pains the ambassadors have taken to accuse our state, you have all observed, men of Athens. With one or two exceptions, which I can hardly remember, they have endeavoured to cast the blame of everything upon us. Had their accusations been true, you ought to be grateful to them, for accusing you thus to yourselves and not to others. But, since in their speeches they have distorted the truth, omitting all mention of those actions which entitle you to the highest praise, and bringing charges which are false and have no relation to you whatever, you must, when they are convicted of such conduct, regard them as good-for-nothing persons. For, if they have sought the reputation of clever orators rather than that of truthful and honest men, they must themselves acknowledge, I should think, that their character for respectability is gone. It is a difficult thing to rise in your assembly to speak in your behalf, though it is easy to rise and speak against you. For, by Athene, I believe, there are no people in the world who so patiently endure to be reminded of their real faults, as you endure to be scolded for faults which you are not chargeable with. These men would not dare to utter such impudent falsehoods, were they not aware of this circumstance, and were it not notorious, that you are ready and willing to hear anything that any man will say against you. If it is needful that you should pay the penalty of such folly, you may be punished in this way, by hearing the state calumniated. But, if it is right to say all that justly can be said in defence of the truth, I am come forward for this purpose, believing, not that I myself shall be able to speak worthily of what you have done, but that the deeds themselves, however they are represented, must appear to be honourable and just. I trust, men of Athens, that you will give me an impartial hearing

for your own sakes, and not be so cajoled by the speeches of these men as to become their factious partisans. For no one can cast any blame upon you, if you are deceived by a clever orator, but the blame then will be theirs, who have exerted themselves to impose on you.

XLVII.

I think you will all agree, men of Athens, that every one of you desires those measures to be carried, which he deems most advantageous to the state. It so happens, however, that you are not unanimous in your judgment of what is advantageous, or else you would not some of you desire me to speak, and some not to speak. To those who approve of the same measures as the speaker there is no need for him to address a single word ; for they are already convinced : to those whose policy is opposed to mine I have a few words to say. If you refuse to listen, it is of course as impossible for you to learn anything, as if you were silent and no one got up to speak. If you will lend me your ears, one of two good consequences must necessarily ensue. Either you will be brought over to the same opinion, and so will take counsel together more harmoniously, than which there cannot be a greater advantage under existing circumstances ; or, if the speaker is unable to convince your minds, you will have a firmer confidence in your present judgment. And besides, it does not look well that you should come to the assembly under a supposed obligation of choosing the best counsels which are offered you, and that it should turn out that, before you had formed a judgment from the speeches, you had already a conviction in your own minds, and one of so obstinate a nature, that you refused to hear anything to the contrary.

XLVIII.

Some of you perhaps, O Athenians, may think me troublesome for speaking so often, and always about the same matters. However, if you look at the thing fairly, it will appear that the blame of this should fall, not upon me, but rather upon those persons who disobey your decrees. For, if they had in the first instance done what you commanded, there would have been no necessity for me to speak

a second time, or, if they had done it in the second instance, there would have been no necessity to speak again. But now, O Athenians, the oftener you have decreed what is for your advantage to be done, the less, as it seems to me, are those men prepared to do it. Formerly, by the Gods, I never understood the meaning of the expression "Office shows the man," but now I think I could explain it to others. For our men in office, or some of them, (that I may not include all in the same charge,) have not the slightest regard for your decrees, but care only for what they can get. If it were possible to give them anything, I might justly perhaps have been reproached for choosing to trouble you for a trifling outlay: but it is not possible, as these men themselves are fully aware. If they imagine that I shall procure anything extra for them, on account of the public charges which they have to defray, they talk nonsense. Perhaps indeed they wish what they expect; but I shall do nothing of the kind. No. If they find the means, I will launch the ship and perform my duty; if not, I will disclose to you the guilty parties.

XLIX.

I should think no sensible man, O Athenians, would deny, that the best of all things for the commonwealth is, if possible, to adopt no hurtful measures at all; the next best thing is, that we should have persons ready to oppose them. But then it is further necessary, that you should be willing to hear and to be instructed; for there is no use in a wise counsellor, unless he has people to follow his advice. Again, it would not be unprofitable after this, that, whatever deceits may have been practised on you, owing either to the occasion, or to the time of day, or to any other cause, there should be some one to institute a further inquiry into the matter, when you return to your senses and are willing to hear it, so that, if your resolutions appear to be such as they were represented by their advisers, you may execute them all the more zealously for their having borne the test of inquiry, and, if they are found to be of a different character, you may pause before you proceed with them any further. It would be shameful indeed, if people who missed the best measures were compelled to execute the worst, and were not

allowed to do the best thing under the circumstances, namely, to change their policy. I observe that all other men hold themselves out as perpetually responsible, when they are confident in the rectitude of what they have done: these men, on the contrary, object to your reconsidering any mistake which you have fallen into, thinking that your original delusion should have greater effect than the proof which you get afterwards. The motives which make these men so zealous are pretty well understood by most of you. However, as you have greater liberty of speech, it becomes every man's duty to advise what he thinks best for your affairs.

L.

I pray to heaven that, whatever is likely to benefit the whole commonwealth, may be spoken by all, O Athenians, and chosen by you. I myself will openly declare what I am persuaded is most for your advantage, first making one request to you, that you will neither regard those who bid you march to battle as therefore possessing courage, nor those who endeavour to oppose them as therefore cowardly. For words and acts are not proved in the same way, O Athenians; but now it should appear, that you have taken prudent counsel; hereafter, if these measures are carried, you will have to display the qualities of courage. Your zeal cannot be too highly praised; it is such as every well-wisher to the state would desire; but, the more earnest it is, the more care should you take that you apply it to proper uses. For the choice of a measure will get no credit, unless the issue of it be honourable and useful. I remember, O Athenians, I once heard a saying here of a man who was in good repute both for his wisdom and his military experience—I mean Iphicrates—who said that a general ought to go into action with the purpose, not of effecting this or that, but of effecting this: such were the words he used. It was well understood, that what he meant was, that he should go into action to conquer. When you march to battle, whoever leads you is your master; but now each of you is his own commander. You must now therefore take such measures as will in every possible way conduce to the good of the state, and not, for the sake of an uncertain prospect, diminish your present welfare.

LI.

I should have thought, men of Athens, that no one who had confidence in these measures would complain of those who bring them under discussion: for, the more often they are scrutinized, the more highly must their authors be esteemed. And yet, as it appears to me, they themselves make it evident that they have not acted for the good of the commonwealth. Certainly it is those who are likely to be exposed in the event of a new discussion, who shrink from it and say that we ill-treat them. But, when you complain of ill-treatment on the part of us who seek the exposure, what then should we say of those who have practised deception upon us?

LII.

It would be just, O Athenians, that you should regard with the same displeasure those who attempt to deceive you, as those who succeed in the attempt. For, whatever lay in their power, they have done; they have led you on as far as they were able; and their failure is owing to fortune, and to your being in a better state of mind than when you were under their influence. For my own part however, I think the state is so far from being in a condition to punish offenders, that you ought to be very well content if you can escape mischief yourselves: so many juggling tricks are played off against you, and so many persons lend themselves as tools for the purpose. The present is not the fittest time to denounce the baseness of such people. I will address myself to the subject on which I rose to speak, and state what I consider to be advisable.

LIII.

The wrangling and disturbance, which so often occurs to the detriment of the commonwealth, has now also, men of Athens, proceeded from the same persons that it always does. Yet it is not so much these persons who are to be blamed, (for they act thus perhaps from passion and rivalry, and mainly because they think it is for their private advantage;) it is you, men of Athens, with whom the fault principally rests—you who, when assembled on public business of the highest importance, sit listening to private scandal and abuse, and cannot so much as reflect, that these reproaches,

which the orators cast on one another without bringing the matter to trial and judgment, cause you to be responsible for what they prove against each other. For, with a very few exceptions, (that I may not include all in the charge,) none of them abuses his rival in order that your affairs may be improved, (far from it,) but in order that, what each charges his adversary with doing, and represents as a grievous offence, he may himself do with less chance of discovery. Don't rely on my words for the proof of this, but only consider for a moment. Does any man ever rise in the assembly and say—"I have come forward, men of Athens, desiring to get something from you, and not for your advantage"?—Assuredly, no one ever says this. They pretend to have come forward for your sake and on your account; such is their pretext. Now ask yourselves, O Athenians: how it is that you, whose interests they all profess to serve, are no better off now than you were before, while these orators, who do everything for your sake, and not one of whom has ever spoken a word for his own advantage, have all of them risen from poverty to wealth? The reason is, O Athenians, because they say they love you, but in fact they love not you, but themselves. They give you something to laugh at; they give you the opportunity of making a noise; and sometimes they buoy you up with hopes; but never will they gain or acquire anything really beneficial to the state. No, men of Athens. The day that you are roused from your deplorable state of weakness, you will not endure even to look upon these men. At present they hold up the people, as if they were sick, with their drachm and their gallon and four obols, giving you, O Athenians, such diet as physicians give to their patients. As that neither imparts strength nor permits the patient to die, so these allowances neither let you turn in desperation to something better, nor are themselves of any permanent advantage.

LIV.

It is just and right and honourable, men of Athens, that we should be as attentive as you yourselves always are to the performance of religious rites. I have been careful to perform my duty to you in this respect; for I have offered sacrifice to Jupiter the Preserver and to Athene and to

Victory, and the sacrifice has been favourable and auspicious for you. I have sacrificed also to Persuasion and to the Mother of the Gods and to Apollo, and these offerings have likewise found acceptance. And the sacrifices to the other Gods were attended with success, and promise safety and welfare to the state. Receive then, O Athenians, from the Gods the blessings which they offer you.

LV.

There was a time, I believe, in your history, O Athenians, when the people compelled any man whom they saw to be honest and wise to engage in public business and hold political appointments; not that there was any lack of men who desired to do so; (for, while I consider our state fortunate in every other respect, I believe she never enjoyed this one piece of good fortune, the failure, namely, of persons willing to make a profit out of the public purse;) but the people, O Athenians, regarded this as a spectacle glorious to themselves and profitable to the commonwealth. For these statesmen, linked to one another in continual succession, as they were good and virtuous in private, shewed themselves cautious and discreet in their political conduct; and those citizens, who, though they were honest and good magistrates, were not very clever at haranguing and canvassing, were not excluded from honours. But now, O Athenians, you appoint your magistrates exactly in the same way that you appoint your priests; and yet you wonder, when this or that person becomes wealthy by continually receiving large sums of the public money, while the rest of you walk about envying their prosperity. You are famous for taking away the honours which you confer, and making laws for such cases, when any one twice holds an office in the city police, or the like; while you permit the same persons always to be your generals. And there is some excuse perhaps for allowing those who are engaged in actual service to hold their commands; but it is folly to permit the others, who do nothing, and hold a place for which they pay nothing, but are themselves paid. You should rather, O Athenians, appoint some of yourselves, as there are so many of you. For, if you weigh people as it were in a balance, every one who has any merit will soon voluntarily come forward.

LVI.

That a man should rise to address you, who is persuaded that he has some useful advice to offer, is in my opinion, O Athenians, a right and proper thing ; but that any one should force himself upon you. when you are unwilling to hear him, I consider to be quite disgraceful. Should I be fortunate enough to secure your attention to-day, I think that you will be better able to choose the wisest measures, and will shorten the speeches of those who mount the platform. What then do I advise? First, O Athenians, that you will require every one who comes forward to speak on the question before you. Otherwise you will have men talking upon a multitude of topics wide of the mark, and wandering into the field of wit and sophistry, especially if they imitate some of these orators who are so clever. If you were come here to listen to words, this sort of language should be both spoken and heard : but if you are come to deliberate on the choice of measures, I would have you judge the measures as far as you possibly can by themselves, irrespectively of the words that are calculated to deceive you. This is the first thing I advise. The next—which some persons may think strange, looking at the small importance of the speeches—is this : that you will hear those who address you in silence. For on the question whether this or that measure is expedient, and which the state ought to select, there is but little to be said, unless people talk for the sake of talking, and that little will not bear repetition : but to tell you that you are bound to listen, and to reply to clamour, and make words grow out of words, is easy enough for anybody. By clamorous interruption you don't get rid of the speaker ; he goes on again, and you are forced to hear what is nothing to the purpose. Such is my opinion upon the subject in debate.

THE EPISTLES.

THE PREFACE.

Six epistles have come down to us under the name of Demosthenes, purporting (all but one) to be written to the people and council of Athens, and four of them during his exile The first is written after the death of Alexander; it exhorts his countrymen to take advantage of the occasion, to adopt prudent and vigorous measures for the recovery of their independence, and, above all, urges the necessity of a general amnesty and concord among the different cities and parties of Greece. In the second letter he petitions for his recall from exile, asserting his innocence of the crimes imputed to him, and reminding the people of his former services. In the third he entreats them to pardon and release the sons of Lycurgus, who had been thrown into prison for debt. In the fourth he defends himself against the calumnies of one Theramenes, who had reproached him with being unfortunate and the cause of ill-fortune to his country. The fifth is addressed to Heracleodorus, an orator of some Greek city, engaged in the prosecution of one Epitimus upon a criminal charge; in whose behalf the writer implores his clemency. The sixth relates to the affairs of the Lamian war.

Critics are divided in opinion as to the genuineness of these epistles. There appears to have been no doubt entertained on the subject in ancient times: for they are cited as genuine by Hermogenes, Harpocration, Aristides, and other writers. But the facility with which the ancients were apt to receive collections of letters passing under the names of eminent men weakens the authority of such recognition. In modern times, Taylor, Bekker, Böckh, Dindorf, Clinton, and Kiessling have pronounced these letters to be spurious. On the other side are H. Wolf, Reiske, and A. G. Becker; the last of whom conjectures, that Demochares, a relation of the orator, procured from the archives of the council chamber the letters addressed by him to the council and people, and added them afterwards to his published works. Schäfer believes in the first four of the letters; the two last he pronounces to be spurious.

EPISTLE I.

CONCERNING CONCORD.

In commencing anything important, either in word or deed, one ought, I think, to address oneself to the gods. I therefore pray to all the gods and goddesses, that it may enter

into my mind to write, and into the minds of the assembled Athenians to choose, whatever is best for the people of Athens and for the well-wishers of the people both now and hereafter. Having uttered this prayer, and hoping to be inspired by the gods with wise and salutary counsel, I write the following.

Demosthenes greets the council and people of Athens. As to my return from exile, I consider that you may at any other time deliberate among yourselves, and therefore I have not now written upon that subject: but seeing that the present crisis may, if you adopt proper measures, bring honour and safety and freedom not only to you, but to all the rest of the Greeks, and that, if you mistake your course or allow yourselves to be misled, the opportunity will not easily be recovered, I have deemed it my duty to lay fully before you the opinion which I hold. I am aware it is a difficult thing to persuade by letter; for your custom is, to oppose arguments without waiting to understand them. A speaker may discover your wishes and correct your misapprehensions; but a paper, if its readers are clamorous, has no such means of setting them right. However, if you will only hear me in silence and have patience to understand all that I have to say, I believe and I trust under favour of the gods, short as this letter is, I shall show that I have myself been acting purely out of good-will to you and for your benefit, and I shall be able to point out what is your true policy at the present crisis. In taking up my pen, I have not supposed that you are at a loss for orators, or persons who will say whatever comes uppermost without reflection: my object is, to impart to your advisers whatever knowledge I possess from experience or from having followed up the course of Grecian politics, and so, while I furnish them with ample means of discussing what I recommend, to enable the mass of the people more easily to decide upon their choice of measures. Such are the reasons which prompted me to write this epistle.

It is first and principally necessary, men of Athens, that you should establish perfect harmony among yourselves with a view to the good of the commonwealth, and you should lay aside those disputes which agitated former assemblies. Secondly, you must all of you co-operate with zeal and unanimity in executing the decrees which you pass; for to

do nothing at all, or do nothing with an honest purpose, is not only ignoble and unworthy of yourselves, but is attended also with the greatest danger. And you must not forget another thing, which, though not sufficient of itself to win success, yet, when added to warlike power, will make every conquest much more easy to you. What do I mean? That you must cherish no bitterness and bear no grudge against any of the Greek cities or any of their members who have supported the existing state of things. For the fear of such a thing will cause those who see themselves in danger from their connexion with the conspirators, to be their zealous defenders; whereas, if such fear be removed, they will all be milder in their feelings, and this will be of the greatest service. To proclaim such a policy in every city of Greece would be folly, or rather would be an impossibility; but, as you are seen to treat your own fellow-citizens, so will it be expected that you mean to deal with other people. I say that no one must cast any blame or reproach upon any city, or any general or orator or private individual, who has been known heretofore to support the existing state of things. You must concede that all who have been concerned in state affairs have done what became them, since the gods happily have preserved the state, and restored to you the power of independent action; and you must look upon it, as if you were in a ship, and some advised to navigate her with the sail, some with oars, that everything is counselled by both parties for a salutary purpose, but the issue depends upon accidents sent by the gods. If you judge of the past in this manner, O Athenians, you will induce all people to place confidence in you, and will act the part of honourable and good men; you will also effectually promote the objects you have in view, and cause either all your opponents in the Greek states to change their policy, or a few who are the most guilty to be left in the lurch.

I pray you then to act in this magnanimous and generous spirit, promoting the common welfare of all, while you neglect not your own. I, who thus exhort you, have not myself met with the like liberality from certain persons, but have been unjustly and factiously sacrificed for the gratification of a cabal. However, I neither choose to indulge my private resentment at the expense of the public interests, nor

will I in any way mix up my private quarrels with the public interests, but, whatever I recommend others to do, I will set the example of doing myself, as it becomes me.

The means to be taken to prepare yourselves, the perils to be avoided, the measures which, according to all human calculation, will most tend to ensure success, I have stated as nearly as I could. How to carry on affairs day after day, how to take advantage of sudden events, how to discern every moment of action, how to know what is possible to be gained by persuasion, and what requires the exertion of force, all this will be the business of the generals in command. Therefore the duty of an adviser is exceedingly difficult; for measures which have been rightly chosen and most anxiously weighed and considered are often ruined by the mismanagement of those who are appointed to execute them. Now however I trust that all will go well. If anyone imagines that Alexander has been a fortunate man in obtaining uniform success, let him remember that that prince obtained his good fortune by labour and activity and boldness, not by sitting still. Now that he is dead, fortune is looking out for people to attach herself to. You ought to be those people. See that the leaders whom you give to your troops, and to whom you must necessarily entrust the execution of your plans, be as well disposed to you as possible. Whatever each individual among you is able and willing to do, let him resolve in his own mind to do it; and don't let him break his resolution, or shrink and fall back, under the pretence that he has been deceived or misled by undue influence. Remember, you will not find people to make up your failures and deficiencies. Nor is there the same danger in a frequent change of plans where you have it in your own power to act as you please, as there is when you are engaged in war; for a change of purpose in the latter case is defeat. Avoid then anything of this kind. Resolve only on such measures as you have the spirit to execute promptly and bravely; and, when you have once passed a resolution, invoke Dodonæan Jupiter and the other gods, who have returned you so many true and favourable and glorious oracles; call them to your aid, and act under their auspices; and vowing to them the first fruits of victory, proceed with happy fortune to liberate the Greeks. Fare ye well.

EPISTLE II.

CONCERNING HIS OWN RETURN.

Demosthenes to the council and people sends greeting.

I EXPECTED from the character of my statesmanship, not only that I should not be involved in such a calamity without being guilty of any crime, but that, even if I had committed some slight offence, I should obtain pardon. Since it has turned out as it has, mark the course I have taken. Whilst I saw you, without any clear proof or evidence given on the part of the council, passing sentence of conviction in pursuance of their secret information, I determined to keep myself quiet, considering that you were surrendering your own rights and privileges as much as I was deprived of mine; for, when sworn jurors accepted the bare assertions of the council without any proof being offered, this was a surrendering of the constitution. Since however, as good fortune will have it, you have opened your eyes to the arbitrary power which certain members of the council were endeavouring to secure to themselves, and you now decide causes according to evidence, and have discovered that the secret whisperings of these men are highly censurable, I think that, with your permission, I may fairly ask to obtain the same relief as those who have suffered under the same accusations, and not to be the only man who by false accusation is deprived of his country and his property and the society of his friends and relations.

You ought indeed, men of Athens, to be anxious for my restitution, not only because I have been cruelly treated without in any way deserving it at your hands, but for the sake of your own character among other people. For you must not suppose, because no one reminds you of the times and occasions when I rendered the greatest services to the state, that the rest of the Greeks are ignorant of these, or have forgotten what I have done for you. I am, for two reasons, reluctant now to enumerate these services; first, for fear of envy, against which it is of no use to speak the truth, and secondly, because we are compelled now, through the cowardice of the rest of the Greeks, to do many things

that are unworthy of my former exertions. I may say briefly, however, the acts by which I showed my zeal in your behalf were of such a nature, that you were admired and envied for them by all men, and I had hopes of receiving the greatest rewards from you. When cruel and relentless fortune decided the battle, which you fought for Hellenic freedom, not as was just, but according to her own arbitrary will, even after that I never renounced my devotion to you, nor bartered it for anything else, neither for favour, nor hopes, nor wealth, nor power, nor safety; though I saw that all these advantages were to be had by those who by their politics would act against you. Among many important things, however, upon which I may justly pride myself, there is one which I have always deemed the most important, and this I will not hesitate to mention to you; namely, that whereas in the memory of man there has never existed any one with so remarkable a talent as Philip, for winning people's hearts and gaining them over to him by his social powers, and for corrupting by bribes the leading statesmen of the Greek cities, I alone was found proof against such influences, (a thing no less honourable to you than to myself,) though I frequently came in contact with Philip, and discoursed with him as your ambassador, and I declined divers offers of money which he made to me, as many persons who are yet living can testify. What opinion must these persons have of you? Only consider. That you should have treated in such a way a man of my character, is no disgrace, though it is a calamity, to me; but to you it cannot fail to be a matter of reproach, which you will clear yourselves from by reversing your judgment.

All however that I have mentioned I regard as of minor importance, compared with the general course of my political life, in which my principle and my practice has always been, never to lend support to any feud or faction or any unjust encroachment either of a public or a private nature; never to take vexatious proceedings against any man, whether citizen or alien; not to exercise my oratorical talents for my own private advantage against you, but to be at my post as a statesman on your behalf, whenever my assistance was needed. The elder among you will remember, and should in justice mention to their juniors, the assembly in which you met to hear

Python of Byzantium, when he came here with ambassadors from the Greeks, to prove that our state had been guilty of injustice; but he went back with a different tale, after I, I alone of all your orators, had defended you against his calumnies. I pass by the various embassies which I conducted for you, and in none of which you ever sustained any disadvantage. For my measures, O Athenians, were designed, not to enable you to vanquish one another, not to sharpen the weapons of the commonwealth against itself, but to acquire renown for you as a noble and magnanimous people. These are the things which all of you, and especially the young, should regard with admiration. You should not look only for a man who in all his political acts will minister to your pleasure, (such persons you will never have any difficulty in finding); you should look also for one who in a friendly spirit will reprove you for your ignorance.

I omit many things besides, for which another man, without any other merits, might reasonably have expected to obtain your mercy—I mean choragic and trierarchal services, and voluntary presents of money on all occasions; upon which it will appear that I was not only myself the first to come forward, but that I exhorted others to do the same. Consider, men of Athens, how little all these things deserve the calamity which has fallen upon me now.

Countless as are the troubles which surround me, I am at a loss which first to deplore—whether the advanced age at which I am compelled for the first time in my life, and without having in the least deserved it, to seek a perilous exile—or the disgrace of having been found guilty and condemned without proof or evidence—or the high hopes from which I have fallen into a depth of misery, which should have been the lot of others rather than mine. For it cannot be shown that I was ever one of the friends of Harpalus, or that I deserved to be punished for any previous political acts, or for anything that was proved at my trial. Of all the decrees that were framed in the affair of Harpalus, it is only those got up by me which have cleared the state of blame. From all this it is evident, that I have suffered not for any crime of my own, but through the circumstances of the time; I have unjustly been the victim of that resentment which falls upon all parties accused, because I was the first who was

brought to trial. For which of the arguments that have saved those tried after me was not urged by me? What proof did the council bring against me? What proof could they bring now? There is none; for no one can make a fact out of that which never took place. However, I will drop this subject, though I could enlarge upon it if I liked; for I have learned by experience, that the consciousness of innocence is of little use to save a man, while it bitterly augments his suffering. Since, as I am happy to learn, you have become reconciled to all the accused parties, be reconciled also to me, O Athenians. For I have never injured any one of you, as all the gods and heroes can testify; as all bygone time can bear witness; to which you ought much rather to give credence than to the unsupported charge which has lately been brought against me. And I may fairly add, that of those who have suffered by this calumny, you will find me to be neither the vilest nor the least trustworthy.

Neither ought my leaving the country to be a cause of displeasure. For I did not remove because I had despaired of you, or because I looked to any other quarter for safety; but in the first place, because I deeply reflected upon the disgrace of imprisonment, and in the next place, because on account of my age I was not able to endure the bodily pains and privations attending it. Besides, I did not suppose you to be unwilling that I should escape an ignominious punishment, which would destroy me without benefiting you. Further, you have many indications, that I was devoted to no other people, but to you alone. I did not go to a city in which I was likely to play a conspicuous part myself; but to one where I knew that my ancestors had taken refuge, when the peril of the Persian war fell upon them, and in which I was sure there were the most friendly feelings to Athens. That city is Trœzen, to which my first prayer is that all the gods may be kind, on account of her good will to you and her kindness to me; and my second prayer, that I may be able to show my gratitude when I have obtained my deliverance from you. When some persons in this city, in order to gratify me, began to condemn your ignorance in regard to my case, I spoke on the matter with all becoming reserve; and for this I flatter myself I am entitled to admiration and honour from my country. Seeing that, with

all the good intentions of the Trœzenians, their present power was insignificant, I changed my abode, and have placed myself in the sanctuary of Neptune in Calauria, not only for the sake of that protection which I thought the god might afford me—(about that I am not sure; for a person in peril has but a scanty and precarious security against arbitrary power)—but also because from that island I have every day a sight of my country, for which I feel an affection as great as I could wish you to feel towards me.

That I may not any longer be oppressed by these miseries, O Athenians, decree me that relief which you have already decreed for some others, so that I may neither suffer aught which would be disgraceful to Athens, nor be forced to be a suppliant of others; for that would not be to your credit. If reconciliation with you were impossible, it would be better for me to die. This is my feeling: you have no reason to doubt it, or regard it as an idle boast: for I made you the arbiters of my destiny, and did not shun my trial, that I might not abandon the truth, or withdraw myself from your power, but allow you to do what you pleased with me: I thought it right that a people, from whose bounty I had received so much, should be permitted even to do me injustice if they liked. Since righteous fortune, however, prevailing over unrighteous fortune, by your not having taken any fatal step against me, has given you the opportunity to reconsider your judgment, deliver me, I pray you, O Athenians, and pass a vote that shall be worthy both of me and of yourselves. You will find nothing to blame in any part of my conduct; you will find that I do not deserve to be disfranchised or to be ruined, but, on the contrary, that my goodwill to the people of Athens has been as warm as any man's (to say nothing invidious); and that I have accomplished more than any man living for your good, and given the strongest proofs of my affection to you.

Don't let any of you imagine, O Athenians, that it is from pusillanimity or any other base motive that I fill my letter with complaints. All men occupy themselves with what is before them, and what I have before me now, (alas, that I should have lived to see it!) is grief, and tears, and longing for my country and you, and the thought of what I have suffered; all which causes me to lament and complain. If you look at

the matter fairly, you will not find that in any part of my career as a statesman I exhibited pusillanimity or weakness.

Thus far I address myself to all of you. To those who are at enmity with me I have something special to say in your presence. What they did in subservience to your ignorance I will allow to have been done on your account, and make no complaint against them. Since you however have acknowledged your error, they will do well to make the same concession to me which they allow in the case of others: should they pursue me with their malevolence, I entreat you all to come to my help, and not to let the hatred of these men prevail over your kindness. Fare ye well.

EPISTLE III.

CONCERNING THE SONS OF LYCURGUS.

Demosthenes to the council and people sends greeting.

In my former letter I wrote to you on the subject of my own affairs, and stated what I thought you were bound to do for me; to which in due time perhaps you will consent. I trust also you will not overlook the matter upon which I have written to you now, and have regard not to party feeling, but to justice. For it so happens, that, although I am living at a distance from you, I hear many people blaming you for the manner in which you are treating the sons of Lycurgus. I should have sent you this letter, if it were only for what their father had done in his lifetime, for which you, no less than myself, ought to show your gratitude, if you mean to do what is right. Lycurgus, having in the beginning of his career applied himself to the financial department of the government, was not accustomed to prepare measures concerning the affairs of your allies or those of the Greeks in general: but, when most of those who pretended to be the friends of democracy had deserted you, he then attached himself to the popular side in politics, not because it afforded him the means of getting profit or reward—(such things were got rather from the other side)—nor because he saw that democratic principles were the safer—(on the contrary, they were attended with

many obvious dangers, which every one undertaking to speak and act for the people was forced to encounter)—but simply because he was a man friendly to the people, and honest by nature. Being on the spot, he saw that those who were inclined to take the popular side were almost helpless after what had occurred, while their adversaries were in every respect strong and powerful; notwithstanding which, he adhered to that course which he thought was for the people's good, and continued to perform his duty openly and fearlessly, both in word and deed; for which, as all men know, he was demanded from you by the enemy.

I should have written this letter, as I stated in the beginning, for the sake of Lycurgus only: at the same time I considered it desirable for you to know the blame that was cast upon you by foreigners, and I had a stronger inducement to send the letter on that account. I beg of those who are hostile to him from any private motives to hear patiently what truth and justice can urge on his behalf. Be assured, O Athenians, that the reputation of your commonwealth suffers from what you have done to the children of Lycurgus. For not one of the Greeks is ignorant that you honoured Lycurgus in his lifetime to excess, and, although many charges were preferred by envious persons against him, you never found any of them to be true, and you had such confidence in him, and believed him to be so eminently a friend of the constitution, that you decided many questions in courts of justice upon the single affirmation of Lycurgus; that was sufficient for you, and it would not have been, had you not had such opinion of him. Therefore all men now, hearing that his sons have been thrown into prison, pity the deceased father, sympathise with his children, as being unworthily treated, and reproach you in bitter terms, which I should not venture to repeat. I am annoyed to hear these things, and contradict them and take your part as far as I can: and I mention them only thus ar, to apprize you that you incur general blame; for I think it is to your advantage to know it; but it would be very painful to report all the scandal circumstantially. I shall communicate to you so much of what certain people say as is not abusive, and as I think it good for you to hear. No one believes that you labour under any ignorance or delusion as to the truth of

what concerns Lycurgus himself. The length of time during which his character was subjected to your scrutiny, and he was never found to have done you any wrong either in thought or deed—this, and the fact that no one ever suspected you of a lack of acuteness in other matters, naturally destroy the excuse of ignorance.

There remains then nothing else but what would be universally pronounced to be the characteristic of a base people, namely, that you appear only to care for a man so long as you can make use of him, and after that you trouble yourselves about him no longer. For in what other way can you be expected to show gratitude to a deceased man, when you are seen to show unkindness to him in relation to his children and his good name, the only things for which all men, even on their deathbed, are anxious to make honourable provision? It becomes not good and virtuous men to appear to act thus from pecuniary motives. It would not be consistent with your magnanimity, or with the general principles of your conduct. If you were called upon to ransom these youths from other people by a sum of money raised out of your revenue, I believe you would be all ready to do it: when I see you therefore reluctant to forgive a penalty, which has been imposed confessedly from motives of envy, I know not what else I can believe, except that you have taken up some bitter and violent prejudice against the friends of democracy. If this be so, you are adopting a course which is neither proper nor useful to yourselves, O Athenians.

I wonder none of you consider, that it would be a disgraceful thing, if the people of Athens, who are thought to excel all men in understanding and education, whose country has ever been a common place of refuge for the unfortunate, should now appear to be less merciful than Philip, who probably being ill instructed, and bred up without any restraint or discipline, thought proper at the time of his greatest success to display a spirit of humanity, and could not bring himself to declare that he made inquiries about his enemies in the field, with whom he had had a mortal struggle, and learned who they were and to whom they belonged: for he did not, (it seems,) think, as some of your orators do, that it is just or proper to treat all in the same way, but took merit into account in deciding such matters. You however, though you

are Athenians and have received education, which, according to the common opinion, can make even stupid people endurable, have, in the first place, done a thing of the most unreasonable kind, in imprisoning the sons for the alleged crime of the father, and, in the next place, you represent this proceeding to be the same as if you were trying equality of weights and measures, not as if you were judging the political acts and principles of men; upon which inquiry should it appear that the acts of Lycurgus have been honest and constitutional and dictated by good will to you, his children ought to be requited by you not with evil, but with every possible good; or, should the contrary appear, though he would have deserved to be punished in his lifetime, his children ought not to incur displeasure for his faults; for death is the end of all offences to all men. If these are your principles, that, while the enemies of constitutional statesmen will not be reconciled to them even after their death, but continue to be hostile even to their children, you yourselves, in whose cause every friend of democracy struggles, will be grateful only while you can make use of him, and afterwards have no further regard for him—if these, I say, are your principles, nothing will be more wretched than to espouse the side of the people.

If Mœrocles answers, that this mode of reasoning is too subtle for him, and that he put the sons of Lycurgus in prison to prevent their running away, ask him why, when Taureas and Patæcus and Aristogiton and himself were condemned to imprisonment, and, instead of going to prison, continued even to speak in public, he never saw the justice of this argument. If he says that he was not then in office, at all events by the laws he ought not to have spoken. But how can it be equitable or constitutional, that some persons should hold office, who are not entitled even to speak, while others are cast into prison, whose father conferred valuable services on the state? I myself cannot understand, unless you wish publicly to announce, that brutality and impudence and profligacy have power in the commonwealth, and a better chance of safety and success, and that persons of such a character, even when they get into a scrape, have the means of getting out of it, while it is a perilous thing to live a life of good principles and to be an honest man and a friend of

the people, and, in the event of any plunder being committed, it affords no chance of safety.

That it is unjust to hold a different opinion of Lycurgus from that which you held of him in his lifetime, and that it is just to have more regard to those who are gone than to those who are present; these and the like remarks I will pass by; for I believe their truth will be acknowledged by all men: but I should be glad to see you remember in how many other cases you have been grateful to the children for the good deeds of the fathers, as, for example, to the descendants of Aristides and Thrasybulus and Archinus and many others. I have not brought these cases forward by way of reproach. So far am I from intending this, that I think such conduct most beneficial to the state; for you thereby invite all men to be the friends of the people, when they see that, though in their own lifetime envy may prevent their obtaining the honours which they deserve, at all events their children will get from you what they are entitled to. Would it not be absurd, or rather would it not be disgraceful, when for some other of your countrymen, notwithstanding the remoteness of the time when their services were rendered, and though what you know of those services is from hearsay and not from your own eyesight, you preserve the regard which is their due, that to Lycurgus, who is but just dead and who has but lately ceased to administer your affairs, you have not shown that mercy and humanity which you have been ready to show in former times even to fools and knaves who have wronged you? And your vengeance too has fallen upon his children, for whom even an enemy, if he were considerate and reasonable, would have compassion.

I wonder also whether any one of you is ignorant, that it is not good for your state, to make it known, that those who have cultivated any other friendship, in case of success, get every possible advantage, and, in case of any miscarriage, are able to extricate themselves from it without difficulty, while those who place their dependence upon the people are not only worse off in every other respect, but are the only persons whose misfortunes are permanent. That this is the case, it is easy to show. Which of you does not know, that Laches, the son of Melanopus, was convicted in the court of law, as the sons of Lycurgus have been now, but the whole debt was

forgiven him at the written request of Alexander? And again, Mnesibulus of Acharnæ was convicted in the same manner, the court having passed sentence upon him as it did upon the sons of Lycurgus; yet he, I am happy to say, was released. The man deserved your clemency, I am aware; and none of those who now cry out would have said that the laws were overthrown by it; strange if they had: the laws were not overthrown; for all the laws are enacted for the sake of justice and the preservation of honest men, and it is not right either that the calamities of the unfortunate should endure for ever, or that you should appear to be ungrateful. If indeed my views upon this subject are in accordance with your interests, not only did you not overthrow the laws when you released those men, but you saved the lives of those who enacted the laws when you released Laches to please Alexander, who had requested you, and when you pardoned Mnesibulus on account of his high moral character. Do not then give it out by your conduct, that it is more profitable for a man to acquire a foreign friendship, than to place his trust in the people, or that it is better to attach himself to strangers than to be known as a person of democratic politics. It is impossible for a counsellor and a statesman to please everybody; but, whoever takes the popular side and acts from good-will to the people, deserves your succour and support. If you refuse it, you will teach all men to pay their court to others, not to yourselves, and to shun the appearance of doing anything for the good of the people. In short, men of Athens, it will be a disgrace to your whole community, and a calamity to the whole state, if the notion prevails that envy has more influence with you than gratitude for services, when envy too is a disease, and gratitude is a thing acceptable to the gods.

Nor will I omit to mention Pytheas, who was a friend of the people until he began his political career, and after that was ready to do everything against you. Who does not know that this man, when he came forward on the popular side and began his political life, was persecuted as a slave, and indicted for usurpation of citizenship, and nearly sold into slavery by those men in whose service he wrote the attacks upon me; but, since he has himself begun those practices for which he formerly accused others, he has grown

wealthy enough to keep two mistresses, who have happily brought him on his way as far as consumption, and, when he incurred a fine of five talents, he paid it more easily than he could have borne to pay five drachms before, and besides this, he has not only received from you, the people of Athens, your political franchise, which is a disgrace to the whole community, but he performs the ancient sacrifices of the country on your behalf at Delphi?

When examples of so striking a nature are before the eyes of all men, showing how unprofitable it is to espouse the democratic side in politics, I am afraid you will soon be destitute of persons to speak in your behalf, especially when some of your partisans have been taken away from you by destiny or fortune or lapse of time, as, for example, Nausicles and Chares and Diotimus and Menestheus and Eudoxus, and again, Eudicus and Ephialtes and Lycurgus; some you cast away, as Charidemus and Philocles and me, whom even you yourselves must regard as the most devoted of your friends, though I will not quarrel with you if you think that some others are equally so. Glad should I be if you had an abundance of such men, would you but deal fairly by them and not let them suffer what I have suffered. When however you publish to the world such examples as these, what man can honestly desire to join the democratic party? You will find plenty of persons who pretend to do so, as you have found before. I hope I may not live to see them unmasked, as those men have been, who now openly assert political principles which they once repudiated, and neither care for you nor fear your displeasure. You should weigh these things in your minds, O Athenians, and neither neglect your true friends, nor be swayed by those who are urging the commonwealth to severity and cruelty. Your present affairs require good-will and humanity much rather than faction and malice, which certain persons are pushing to excess, while they work as hirelings against you in the expectation of new troubles, as to which I trust they will be disappointed in their reckoning. Any one who attempts to ridicule these warnings of mine must be very simple indeed. For if, when he sees events having occurred which no mortal could have expected, he doubts the recurrence of what has happened before when the people were set against their defenders by

men employed for the purpose, what else can he be but infatuated?

Had I been at home, I should have explained these things to you by word of mouth: since I am in that situation, in which I wish they were placed who have slandered me to you and caused my ruin, I have sent my advice by letter. In so doing, my first and principal object has been your honour and advantage; and secondly, my feeling is, that I ought to show to the sons of Lycurgus the same good-will which I ever had for their father in his lifetime. Should it occur to any one, that I have plenty of time to spare from my own business, I will not hesitate to reply to him, that I am as anxious to promote your welfare and not to desert my friends as to achieve my own deliverance. I do not write to while away the time, but I undertake both the one business and the other in the same spirit and with the same motive and desire. If I have plenty of anything, it is that which I wish a plentiful supply of to my enemies. But of this enough.

Permit me however now to make my complaint to you in a kind and friendly spirit, and in a few words: you shall hear it soon more fully in a letter, which expect to receive if I live, unless I get my rights from you before. Oh you—(what can I call you without being either offensive or untruthful?)—O thoughtless men, who had so little respect either for others or yourselves, that you banished Demosthenes upon a charge on which you released Aristogiton, and refused me that, which men who dare to set you at defiance may get without your leave! I asked the boon, that, if possible, by collecting the debts that were owing to me and raising contributions among my friends, I might settle with you, and not be seen going about in a foreign land, with old age and exile as the only reward of my labours in your behalf, which would be the common reproach of those who have wronged me. I wished that my return home should be the act of your gratitude and magnanimity, and that I might free myself from the calumny which has been unjustly cast upon me; I only asked protection for such time as you have given me for payment, but this you do not concede, and you ask, as is reported to me—"who prevents his coming to Athens and obtaining this?"—I reply, men of Athens, my own sense of

shame prevents me, and the unworthy requital which I have received for my political services, and my having lost my property through those men, by whom, that they might not have to pay twice over what they were unable to pay once, I was persuaded to become their surety before the magistrate; from whom, if I return home with your kind permission, I may recover a part, if not the whole, so as to escape dishonour for the remainder of my life; but, should I return in the way that my informants advise, I shall be oppressed at the same time with shame and distress and fear.

You take none of these things into your consideration, O Athenians, but grudge me even a few words of kindness, and perchance you will suffer me to perish by your neglect; for I shall not ask aid of any people but you. And then, I am sure, you will say that I have been hardly treated, when it will be no use either to me or to yourselves. For assuredly you do not expect that I have any property, except what is visible, and that I give up to you. The debts owing to me I wish to collect, if in a liberal and humane spirit you will make it safe for me to do so. You cannot show that I received money from Harpalus; for I was not convicted, and I received nothing. If you look at the secret resolution of the council or the Areopagus, remember the trial of Aristogiton, and hide your heads for very shame. I can have no milder terms for those who have sinned against me so grievously. For surely, when Aristogiton was accused by the council on the same grounds as myself, you cannot say that it was just for him to be acquitted and me to be destroyed. You are not so devoid of reason as that. I deserve not such a sentence; I am not a fit subject for it; I am no worse than he was, though I confess I am unfortunate, owing to you. Unfortunate I must be, when, in addition to other calamities, I have to compare myself with Aristogiton, and (what is worse) I being a lost man, and he having obtained deliverance.

Do not suppose that I am expressing anger in these words. I can have no such feelings towards you: but it affords some relief to injured persons to talk about their sufferings, as it does to persons in pain to groan; and assuredly I have the same affection to you as I would wish you to have for me. This in all my acts I have clearly shown and will show. For

it has been always my opinion, that every statesman ought, if he be a good citizen, to have the same regard for his fellow-citizens as a child has for his parents; he should pray that they may be as kind to him as possible, but he should take them as he finds them, and bear with their humours. A defeat in such matters is a creditable and noble victory in the judgment of the wise. Fare ye well.

EPISTLE IV.

IN REPLY TO THE CALUMNIES OF THERAMENES.

Demosthenes to the council and people sends greeting.

I HEAR that Theramenes, among other calumnies which he has been spreading about me, reproaches me with being unfortunate. That he should be ignorant, that abuse, which shows no evil in the person whom it assails, has no effect whatever with sensible people, I am not surprised. For if a man reckless in his mode of life, an alien by birth, and bred from his childhood in a brothel, had any understanding of this sort, it would be more extraordinary than if he had no knowledge at all. With him, if I ever return home and get my pardon, I will endeavour to converse on the subject of his outrageous conduct towards you and myself, and I think, though he has not much shame in him, I shall be able to teach him moderation. To you however I wish, for the sake of the public good, to explain by letter my views upon this subject. I entreat your patient attention to them; for I think they are worthy not to be heard only, but to be kept in remembrance.

I regard your commonwealth, O Athenians, as being of all the most fortunate and the best beloved by the gods, and I know that Dodonæan Jupiter and Dione and the Pythian Apollo have ever declared this in their oracles, and put their seal to the fact, that good fortune abides in the state with you. It is plain that, whatever the gods disclose about coming events, is a prophecy; the expressions which they derive from past events they apply to what has taken place. But my political acts at Athens belong to the past, from which the gods have pronounced you to be fortunate. How

then can it be just that the followers of advice should be called fortunate, while he that gave the advice receives the contrary appellation?—unless perhaps in this way; that the general good fortune, which attended my advice, is declared by the gods, who cannot lie, whereas the slanderous expression, which Theramenes applies to me individually, is uttered by an audacious and impudent and senseless man.

And you will not only find that your fortune has been declared to be good by the divine oracles, but you will see that it must be so by the facts themselves, if you rightly examine them. For, if you look as human beings upon the events which have occurred, you will find that the state has been most fortunate by adopting the measures which I advised; and, if you expect to obtain what is reserved for the gods alone, you aim at an impossibility. What is that which is reserved for the gods, and impossible for mortals? To get everything that is good, to be able to enjoy it themselves and give it to others, and never to suffer or be liable to suffer any mishap in the whole of their lives. Starting from these principles, as you ought to do, compare your own position with that of other people. There is no one so foolish as to assert that what has befallen the Lacedæmonians, whom I did not advise, or what has befallen the Persians, whose country I never visited, is preferable to the state of things among you. I pass by the Cappadocians and the Syrians and the people who dwell in the Indian country, the remotest district of the earth: all of whom have suffered the most grievous and dreadful calamities. But perhaps, though it is generally admitted that you fare better than those people, you fare worse than the Thessalians and Argives and Arcadians, or some others, who have been in alliance with Philip. No. You have come off much better than these nations, not only by having escaped servitude, (and what misery can equal that?) but because, while they are all charged with having caused the misfortunes of the Greeks through Philip and their submission to him, and are justly execrated on that account, you are known to have struggled in the defence of the Greeks, and in their cause to have staked your lives, your property, your commonwealth, your country, your all; in return for which you are entitled to glory and to immortal gratitude from all who desire to do justice. Thus the result

of my counsels has been, that Athens has fared better than any of the states which offered resistance to Philip, and won a higher reputation than those which cooperated with him.

The gods then on this account give us the favourable oracles which I have referred to, and cause the unjust calumny to fall on the head of him that utters it. This will be clear to any one who likes to examine his way of life. For he does by choice what one pronouncing a curse upon him would wish. He is an enemy to his parents, and a friend of Pausanias the brothel-keeper. He brags like a man, and suffers like a woman: he crows over his father, and yields submission to scoundrels. He plumes himself for that, for which he is abhorred by all men, his indecent language and his mentioning of things that give pain to the hearers; but he talks away, as if he were a simple person who spoke his mind. I should not have written all this, had I not wished to awake your remembrance of his vicious propensities. For what one is loth to speak of, and what one would avoid writing about, must be disgusting also to hear. The shocking depravities of this man you know and remember every one of you by so many proofs, that it has been unnecessary for me to say anything indecorous, and he himself is a visible monument of his own vices to all men. Fare ye well.

EPISTLE V.

TO HERACLEODORUS.

Demosthenes to Heracleodorus sends greeting.

I KNOW not how to believe or how to disbelieve what Menecrates has reported to me. He said that Epitimus had had an information laid against him and had been taken to prison by Aratus, and that you were engaged in the prosecution and were the most violent of his antagonists. I entreat you therefore by Jupiter Xenius and all the gods, not to bring me into an unpleasant and ugly affair. For let me tell you that, besides that I am anxious for the safety of Epitimus, and should think it a great calamity if he were to suffer anything and you were instrumental in bringing it about, I am ashamed to think of the persons who know

what I have been saying about you to everybody, which I said under the persuasion that I was speaking the truth, not from my personal knowledge of you, but seeing that you had gained a reputation and set a value on learning, and moreover that learned in the school of Plato, which is wholly removed from worldly lucre or any craft of that sort, but pursues all its inquiries for the sake of right and justice. By the gods, I think it would be an impious thing for any one who had studied with Plato not to be ever truthful and good to all. Again it would be a most disagreeable thing to me, if, when my own natural impulse had been to be your friend, I found myself compelled to entertain a different feeling, because I had been neglected and deceived ; in which case, be assured, whether I say it or not, it will be so. If you despise me because I am not yet an eminent man, remember that you were once young and of the same age as myself, and have grown to be what you are by taking an active part in public and political life. The same thing may happen to me : for I lack not deliberative wisdom, and with the help of fortune success may attend it. A favour justly conferred is honourable to the giver, and this I ask at your hands. Do not be led or swayed by any of those who are less wise than yourself, but rather lead them to your own opinion, and so manage things that we may not be deprived of anything that was promised us, but that Epitimus may be freed and delivered from his perils. I will come myself at the time which you think is the most proper. Write to me, or send me a message as you would to a friend. Farewell.

EPISTLE VI.

TO THE COUNCIL AND PEOPLE OF ATHENS.

Demosthenes to the council and people sends greeting.

There came a letter from Antiphilus to the convention of the allies, satisfactory enough to those who wished to hope for the best, but containing disagreeable news for the partisans of Antipater. They have brought letters from him to Dinarchus, who has arrived at Corinth, and filled all the people of Peloponnesus with rumours, for which I trust the

gods will shower vengeance on their heads. The person who arrives with the bearer of my letter came from Polemaestus to his brother Epinicus, a well-wisher of yours and a friend of mine: he brought him to me, and, when I had heard what he said, I thought it best to send him to you, that you might receive certain information of all that had happened in the camp from one who was present at the battle, and so you might have confidence as regards the present, and feel sure (under favour of the gods) of the accomplishment of your wishes hereafter. Fare ye well.

THE END.

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Ecphantus of Thasos, iii. 23.
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Eretria, a town in Eubœa, opposite to the coast of Athens, i. 107, 123, 128; ii. 35; iv. 70; v. 265.
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Euxitheus, son of Timocrates, v. 209.
Euxitheus the Elean, ii. 106.
Execestus, a physician, ii. 155.

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G.

Gamelion, the seventh month of the Attic year, answering to the last half of January and the first half of February, ii. 36.
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Hegesilaus, a supporter of Plutarch of Eretria, ii. 208.
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Heliæa, the supreme court at Athens, v. 81.

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Hellebore, its use by the ancients, ii. 51 (note).

Heraclea, the chief town of Upper Macedonia, v. 154.

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Heracleodorus, an eminent advocate, to whom Demosthenes addressed his Fifth Epistle, v. 358.

Heraclidæ, The, restored by the Athenians to their hereditary kingdom, ii. 73; v. 280.

Heraclides, delivered Byzantium to the Athenians, iii. 22.

Heraclides of Enos, the murderer of King Cotys, received a golden crown from the Athenians, iii. 204.

Heraclides, a banker, iv. 161; v. 103.

Heræum, a fortress on the Propontis, taken by Philip, i. 53.

Hermæus, a banker of Ægina, originally a slave of Strymodorus, iv. 211.

Hermes, busts of, mutilated by Alcibiades, iii. 114.

Hermias, governor of Atarneus, in Mysia, i. 138 (note).

Hermogenes, v. 93.

Hermon, a pilot, by whose assistance Lysander captured the Athenian fleet at Ægospotamos, iii. 231.

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Hierax, an ambassador to the Athenians from Amphipolis, i. 40.

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Hippias, a cook of Charisius, v. 244.

Hippocrates, an Athenian orator, who moved a decree respecting the Platæans, v. 267, 272.

Hippodamea, the forum in the Piræus, so named after

the architect Hippodamus, v. 119.
Hipponicus, an ancestor of Alcibiades on his mother's side, iii. 114.
Hipponicus, a general sent by Philip against the Eretrians, i. 128.
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I. J.

Jason of Pheræ, an ally of the Athenians, and a friend of Timotheus, v. 114, 116, 119, 121, 127.
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Ilium, seized by Charidemus, iii. 214.
Illyrians, attacked by Philip, i. 41, 43.
Imbrus (the modern Embro), an island on the coast of Thrace, i. 68; defended by two thousand Athenian troops, ii. 48; v. 240.
Iphiades, his son, a hostage for Sestus, iii. 221.
Iphicrates, an Athenian general in the Corinthian war, i. 66; defeated a mora or division of the Lacedæmonian army, i. 171; iii. 226; honours granted to him, iii. 30 (note); a bitter enemy of Diocles, the Pithean, iii. 87; connected by marriage with Cotys, iii. 208; retired to Antissa, and afterwards to Drys, iii. 209; deposed from his command, and superseded by Timotheus, iii. 213, 215; accuses Timotheus, v. 117; his son marries a daughter of Timotheus, v. 129.
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Laches, father of Melanopus, iv. 34.
Laches, son of Melanopus, and grandson of Laches, v. 352.
Lacritus of Phaselis, a sophist and a pupil of Isocrates, iv. 185—202.
Lampis, a large and wealthy shipowner, iii. 231; iv. 170—185.
Lampsacus, a town on the Hellespont, near the modern Lamsaki, i. 51; iii. 211; v. 137.
Lampra, v. 117, 153, 154, 251; iv. 35.
Laomedon, a naval commander, whose vessels were detained by Philip, ii. 35.
Larissa, a town in Thessaly, on the right bank of the Peneus, ii. 167.
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Leocorium, the temple of the daughters of Leos, who had been sacrificed by their father, during a famine, as an offering for the lives of the people (see Thucydides, i. 20); v. 171.
Leocrates, brother of the wife of Polyeuctus, iv. 281—290.
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Leontiades, father of Eurymachus the Bœotarch, v. 266.
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Limnæ, a place outside the walls of Athens, where there was a temple dedicated to Bacchus, v. 260.
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Lous, the Macedonian name for the month called by the Athenians Bœdromion, ii, 64.
Lyceum, the chief of the Athenian Gymnasia, on the south of the city, where Aristotle and the peripatetic philosophers taught, iv. 31.
Lycidas, a miller, v. 165.
Lycidas, a slave of Chabrias, iii. 46.
Lycinus of Pallene, appointed admiral by Timomachus, v. 143.
Lyciscus, an archon, v. 226.
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Lycurgus, one of the ambassadors to Peloponnesus, who arrested Philip's progress, i. 131; his speech against Leocrates, ii. 9 (note), 320 (Appendix II); a principal manager of the prosecution against Aristogiton, iv. 56—87.
Lysander, commander of the Lacedæmonians, in the naval

battle at Ægospotamos, iii. 231.
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Lysimachus, the son of Aristides, rewarded for his good conduct as a citizen with public grants, iii. 41.
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M.

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Macartatus, the maternal uncle of the preceding, of Prospalta, v. 24.
Macedonia, at one time held in great contempt by the Greeks, i. 122; and paid tribute to the Athenians, i. 154.
Madytus, a town of the Chersonese, ii. 39.
Mæmacterion, the fifth Attic month, containing the end of November and the beginning of December, ii. 21.
Magnesia, in Thessaly, taken by Philip, i. 41; Philip prevented from fortifying it by the Thessalians, i. 43; gave it back to the Thessalians, i. 85.
Manes, a slave of Arethusius, v. 67.
Mantias, a citizen of the Acamantian tribe and township of Thoricus, and the father of Mantitheus, iv. 252—267.
Mantitheus, son of Mantias, iv. 252—267.
Marathon, name of a town and a plain, about twenty-six miles north-east of Athens, celebrated for the victory of the Athenians over the Persians, ii. 214; Philip made a descent upon it, and carried off the sacred galley, i. 68; the battle of Marathon, i. 171; ii. 80; iii. 226; the Platæans the only allies of the Athenians at Marathon, v. 265—268.
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Maronea, in Thrace, the modern Marogna, iii. 223; v. 136.
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Melantus, an adversary and slanderer of Demosthenes, ii. 92.
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Melas, an island between Crete and Peloponnesus; a harbour for pirates, v. 233.
Memnon, a son-in-law of Artabazus, iii. 215.
Mende, a town in the peninsula of Pallene, iv. 185, 189, 193, 197.
Menecles, a noted public informer at Athens, iv. 256, 258.
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Menelaus, a commander of cavalry, i. 67.
Menestheus, son of Philagrus by Telesippe of Œum, v. 14.
Menestheus, appointed commander of a hundred vessels against the Macedonian pirates, i. 223.
Menestratus, the Eretrian, a friend of the Athenians, iii. 207.
Menexenus, the son of Polyaratus of Cholargus, iv. 268.
Menippus, an agent of Philip in Oreus, i. 128.
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Menon the Pharsalian, who gave twelve talents for the war at Eïon, i. 171; iii. 226.
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Metanira, a prostitute, v. 244.
Methone (the modern Modon), a town in Messenia, besieged by Philip, i. 40, 41.
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Miccalion, iv. 154.

Micion, of Chollidæ, v. 217—225.
Midias, a man of wealth, and an enemy of Demosthenes (the Oration against Midias), v. 59—137.
Midias, a relation of Conon, v. 172.
Midylides, son of Euthymachus of Otryne, and brother of Archiades, v. 26—32.
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Miltiades, his unostentatious style of living, i. 58; iii. 229.
Miltocythes, a Thracian chief, i. 118 (note); iii. 201, 203; betrayed to Charidemus by Smicythion, and put to death by the Cardians, iii. 218; negotiated an alliance with the Athenians, v. 132.
Milyas, a freedman of Demosthenes; the foreman of his father's business, iv. 98; Demosthenes refuses to give him up for examination by torture, because he was emancipated by his father on his deathbed, iv. 120.
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Mitys the Argive, of whom Chabrias purchased a chariot and four, with which he won the race at the Pythian games, v. 248.
Mnaseas, an Argive, a partisan of Philip, ii. 106.
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Mnesarchides, a wealthy Athenian, iii. 131.
Mnesibulus, brother-in-law of Theophemus, v. 92.
Mnesibulus the Acharnian, Epist. iii.
Mnesicles, an Athenian pettifogger, iv. 256.
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Mnesitheus of Alopece, a witness in favour of Demosthenes against Midias, iii. 93.
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Mnesithides, son of Antiphanes of Phrearrii an ambassador with Demosthenes and others to Philip, ii. 73.
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Molon, an actor, ii. 192.
Moschion, a colour-grinder, one of Conon's servants, v. 104.
Munychia, a port of Athens, in which was a temple of Diana, ii. 45.

Munychion, the tenth Attic month, in which was held the festival of Munichian Diana, the latter part of April and the beginning of May, ii. 66; iv. 165.
Myronides, the son of Archinus, iv. 36.
Myrrhinus, an Attic demus, iii. 96; iv. 20, 162.
Myrtis, an Argive, ii. 106.
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Mysteries, the Eleusinian, i. 54; iii. 117; v. 244.
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N.

Nauclides, betrayed Platæa to the Thebans, v. 266.
Naucratis, an Egyptian city in the Delta, iv. 1.
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Nausicles, an Athenian general, often crowned for his liberality to the state, ii. 47, 48; v. 353.
Nausicles, an archon, not correctly given, ii. 72.
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Neones, a town in Phocis, ii. 162 (note).
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Neoptolemus, a tragic actor, i. 76 (note); ii. 125; an agent of Philip, ii. 215; i. 76.
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Niceratus, a witness for Ariston against Conon, v. 177.
Niciades, son of Lysanias, v. 204.
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Nicias, the brother-in-law of Æschines, ii. 207.
Nicidas, instituted a suit against Xenopithes, iv. 250 (Appendix II.), 309—313.
Nicippus, a shipowner, v. 135.
Nicobulus, the defendant in the action brought against him by Pantænetus, v. 222—243.
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Nicodemus, killed by Aristarchus, the son of Moschus, iii. 101.
Nicomachus, the son of Diophantus, ii. 58.
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Ninus, a priestess, convicted by Menecles, iv. 256.
Notharchus, the arbitrator in the suit between Demosthenes and Aphobus, iv. 128.

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Odeum, a building in Athens, originally built by Pericles for a music-hall but generally used for a law-court, v. 253, 254.
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Œnanthe, the mother of Statonicles, v. 11.
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Œtæans, the inhabitants of Œtea, a town in Thessaly in the upper valley of the Spercheus, v. 267.
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Pammenes, a general, iii. 223.
Pamphilus, the father of Plangon, and maternal grandfather of the younger Plangon, iv. 272.
Pamphilus, the younger son of Plangon, iv. 256.
Pamphilus of Rhamnus, iv. 301.
Pamphilus, a money-lender, the plaintiff in the action against Dionysodorus, v. 187—198.
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Pandosia, a town on the river Acheron, in Epirus, i. 96.
Panemus, a Corinthian month answering to the Athenian Boëdromion, ii. 95.
Pantænetus, the plaintiff against whom Demosthenes composed the oration for Nicobulus, iv. 219—243.
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Parmenio, a general sent by Philip into Eretria, i. 128 ; ii. 141 ; besieged Halus, ii. 167.
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Paseas, a witness in the action brought by Ariston against Conon, v. 177.
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Pasion, the father of Pasicles, iv. 202—219 ; v. 43—75, 113—129, 152—160 ; presented the state with a thousand shields, and was five times trierarch, v. 66 ; died in the archonship of Dysnicetus, v. 71 ; a man of great reputation in Greece, v. 144.
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Phreatto, a certain place in Attica by the seaside, where persons were tried who had been exiled for involuntary homicide, iii. 192, 329 (Appendix VIII.).
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Pnyx, an open semicircular piece of ground opposite the Areopagus, where the assemblies of the people were commonly held, ii. 27, 339 (Appendix V.).
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Polyzelus, who struck a committee-man, iii. 77.
Polyzelus, an archon, iv. 138.
Pontus, the quarter from which Athens was chiefly supplied with corn, iii. 14.
Poseidon, the sixth month of the Athenian year, the latter half of December, and former of January, iv. 138.
Posidippus, a pilot in the trireme of Apollodorus, v. 143.
Posthmus, the port of Eretria opposite Athens, i. 123 (note).
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Protus, an importer of corn, iv. 154.
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Pteleum, a town near the Pagasæan Gulf, i. 98.
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Scepsis (the modern Eskiupsi), a town in Mysia on the Æsepus, not far from Troy, iii. 214.
Sciathus (the modern Skiatho), an island off the coast of Thessaly, i. 68, 107.
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Scironides, v. 223.
Scirophorion, the twelfth Attic month, the latter part of June and the former of July, ii. 72, 138; iii. 94; iv. 5, 138.
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Stryme, a Thasian colony, but claimed by the Maronites, i. 162 (note), v. 136.
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T.

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Thaso) off the coast of Thrace, iii. 22; iv. 197; i. 93, 68.
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Theodorus of Eubœa, ii. 42.
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Thrasybulus of Stiria, who occupied the Piræus till the Thirty Tyrants were expelled and a popular government restored to Athens, ii. 204.

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